

# NEWSLETTER NOVEMBER 2017

## *First & foremost*



Dear Colleagues ,

The Branch is a facility for students ,We were trying to host the GMCS batch for last one year or so and finally succeeded . The First batch of the new MCS Course was ended on 6<sup>th</sup> December 2017 . We are indeed happy to share that the best of the best faculties that are teaching at various places in Mumbai and around were available for our course as well . Now Agarwal College at Kalyan is the new centre for the Orientation batches . Thus ITM College at Dombivli , Oswal College at Bhivandi and Agrawal College at Kalyan are the three centres now for the Orientation Batches . We are also planning to start centre at Ulhasnagar as well . Its our sincere appeal to all the members that just see to it that their articles are attending the Orientation and MCS Courses at our Branch only . Let me assure you that there won't be any difference in quality as the faculties are the same . Just to update the members , We are also hosting the course on Advance ITT from 16<sup>th</sup> February , 2018 . The new batch for MCS is scheduled from 18<sup>th</sup> December at Dombivli .

The students RRC is being held by the Branch on 15<sup>th</sup> and 16<sup>th</sup> December at Visava Resort near Murbad . Since the inception of the Branch this is the first time We are organising RRC for the students . The students programmes help them in nurturing their leadership qualities and also help to improve their soft skills like communication and presentation skills . The sessions kept there are going to be mainly non technical in nature . Our aim is to give them practical training to make them a complete professional .

### Managing Committee

**CA Shekhar Patwardhan**  
Chairman

**CA Murtuza Kachwala**  
Vice Chairman

**CA Saurabh Marathe**  
Secretary

**CA Deepak Darji**  
Treasurer

**CA Madan Achwal**  
Immediate Past Chairman

**CA Maheshkumar Birla**  
Committee Member

**CA Suhas Ambekar**  
Committee Member

**CA Hari Dudani**  
Committee Member

*Continued...*

Since last month We are making an Appeal for CABF contributions. the momentum is picking up now . As a Branch our target is to make 100 members for CABF every year . Considering the size of our branch the said target very much achievable . Lets contribute for the Fund generously its ultimately for our future only . The Life Membership of the fund is just 2.5 K . As a Branch we are collecting the Forms at Branch Level and will be submitting the same to WIRC of ICAI in January 2017 .

Insolvency and Bankruptcy Law is an area of new professional opportunity. The Branch has kept a half day seminar on the same on 16<sup>th</sup> December 2017 at Birla College at Kalyan from 5pm onwards . Members are requested to attend the same and to explore the new area of professional opportunity . Our Branch and Rotary Club of Dombivli West is organising a Public Meeting on Sunday , 17<sup>th</sup> December 2017 at Shubha Mangal Hall Dombivli . The theme of the Public Meeting is Co-operative Clinic . The office bearers of the Co-operative society face many practical problems on various issues . Our goal is to address those problems . The expert in Co-operative field , our Branch Nominee Past Treasurer WIRC , RCM CA Shilpa Shinagre is going to address the said Public Meeting . Members are requested to spread the news about this programme amongst the office bearers of the Co-operative Societies . This Programme will certainly benefit the people at large and everyone is requested to attend the same in large numbers.

Bhivandi CPE Study Circle jointly with Kalyan Dombivli Branch has organised RRC at Saputara from 15<sup>th</sup> to 17<sup>th</sup> December 2017. Members have responded the RRC in good numbers.

The one common problem which we all practicing Chartered Accountants are facing is the problem of getting quality articles . The image of the firm also depends upon the quality of articles , their sincerity and honesty and integrity . So there is a need to encourage more and more students to join our glorious profession . Keeping this intention in kind the Branch along with the Career Counselling Committee of ICAI is planning series of career counselling programmes at various schools and colleges . In this regard I would like to mention the contribution made by senior Career Counsellor CA Kishor Peshori Sir . As a member of Career Counselling Committee of ICAI he along with the leading social and charitable organisations have arranged series of programmes in last 1 Week . The branch is going to follow his steps and with the Co-operation of WICASA Chairman and all the Managing Committee Members and all the seniors in Profession will work for quality career counselling programmes in the forthcoming couple of months .

**Thanking You , With Best Regards !!!**

**CA Shekhar Patwardhan**



**Changes in GST rate**

The CBEC vide *Notification No. 41/2017-Central Tax (Rate) dated 14th November 2017* effective from 15th November 2017 reduced GST rate on goods from 28% to 18% on goods falling in 178 headings at 4-digit level (including 4 tariff heading that are partially pruned). After these changes, only 50 items will attract GST rate of 28%.

For details of rates *Notification No. 41/2017-Central Tax (Rate) dated 14th November 2017* may be referred.

**How do we determine the rate of tax in case, if there is change in the tax rates?**

**Ans.** Three important events need to be considered – Date of raising invoice, receipt of payment and completion of supply. If any of the two events occur before the change in rate of tax, then the old rate will apply else the new rate will apply.

**Illustration** – Rate of GST on Supply made on or after November 15, 2017 reduced from say 28% to 18% then the tax to be applied on supplies will be as under :

**Before** – Event occurred before November 15, 2017

**After** – Event occurred on or after November 15, 2017

Supply Provided	Invoice issued	Payment received	GST Rate
Before	After	After	18%
Before	Before	After	28%
Before	After	Before	28%
After	Before	After	18%
After	Before	Before	28%
After	After	Before	18%

It may be noted that date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after **four working days** from the date of change in the rate of tax.

Comment: Changes in the GST rates have been made with a view to rationalize and minimized classification disputes. Please note that date of payment will be as per books of accounts if the payment is realized in the bank account ‘within’ four days from the accounting date of the receipt.

The GST Council had also recommended issuance of certain clarifications to address the grievance of trade on issues relating to GST rates and taxability of certain goods and services.

[Press Release on GST rate changes dated 10<sup>th</sup> November 2017, Notification No. 41/2017-Central Tax (Rate) dated 14th November 2017, Notification No. 43/2017- Integrated Tax (Rate) dated 14th November 2017]

**Permanent transfer of Intellectual Property is a supply of goods or service**

To obviate dispute and litigation, CBEC vide *Notification No. 41/2017-Central Tax (Rate) dated 14th November 2017* notified that irrespective of whether permanent transfer of Intellectual Property is a supply of goods or service: -

Description	Rate
Permanent transfer of Intellectual Property <b>other than</b> Information Technology software	attracts GST @12%
Permanent transfer of Intellectual Property <b>in respect of</b> Information Technology software	attracts GST @18%

*[Press Release on GST rate changes dated 10<sup>th</sup> November 2017, Notification No. 41/2017-Central Tax (Rate) dated 14th November 2017]*

**Additional goods under RCM under section 9(3) of CGST Act**

**Section 9 of CGST Act 2017** read with *Notification No. 13/2017- Central Tax (Rate) dated 28<sup>th</sup> June, 2017* specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such 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 the supply of such goods or services or both.

Central Government vide *Notification No. 43/2017-Central Tax (Rate) dated 14th November 2017* w.e.f 15<sup>th</sup> November, 2017 had been notified to include “**supply of raw cotton by agriculturist**” under the reverse charge and tax will be liable to be paid by the recipient of such supply under reverse charge.

*[Press Release on GST rate changes dated 10<sup>th</sup> November 2017, Notification No. 43/2017-Central Tax (Rate) dated 14th November 2017, Notification No. 45/2017- Integrated Tax (Rate) dated 14<sup>th</sup> November 2017]*

**Press Release on Changes recommended in Composition Scheme**

The GST Council in its 23<sup>rd</sup> Meeting held at Guwahati on 10<sup>th</sup> November 2017 recommended following changes in Composition Scheme under Section 10 of CGST Act, 2017 subject to necessary amendment in the CGST Act and SGST Acts:-

**Uniform rate of tax @ 1% for manufacturers and traders:** Earlier in case of Manufacturer 1% composition rate applicable & 2.5% in case of trader as per section 10 of CGST Act 2017. GST Council recommended for application of uniform rate of 1% on trader & manufacturer.

Further, turnover only for supply of **taxable goods** will be considered for the tax liability in other words turnover of exempted goods will not be considered in Total Turnover.

**Introduction of Threshold of Rs. 5 Lakh for Composition taxpayer in respect of Services provided by them:**

Supply of services by Composition taxpayer **up to Rs 5 lakh per annum** will be allowed. Earlier Composition Scheme is not available to a service provider except restaurants. In such a case, a supplier of goods who has opted for composition scheme becomes ineligible for composition as soon as he makes any outward supply of services except restaurant services. To avoid such hardships being faced by composition taxpayers, it is now proposed to allow them to make outward supply of Services up to Rs. 5 Lakh in a year.

### **Changes relating to GST rates on certain services**

CBEC vide *Notification No. 46/2017 dated 14<sup>th</sup> Nov, 2017 effective from 15<sup>th</sup> Nov, 2017* made the following changes in the rate of service tax :

<b>S.No.</b>	<b>Description</b>	<b>Rate</b>
<b>1</b>	All stand-alone restaurants irrespective of air conditioned or otherwise Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink provided by a restaurant, eating joint including mess, canteen or takeaways <b><i>including those located in residential or lodging premises</i></b> having declared tariff of <b><i>any unit</i></b> of accommodation <b><i>up to</i></b> Rs. 7,499/-.	2.5% CGST / SGST each without ITC
<b>2.</b>	<b><i>Supply of (1) above, those located in residential premises</i></b> having declared tariff of <b><i>any unit</i></b> of accommodation of Rs. 7, 500/- or more per day.	18% with ITC
Explanation.- “ <b>declared tariff</b> ” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.		
<b>3.</b>	Outdoor catering will continue to be Taxed	18% with ITC
<b>4.</b>	GST on services by way of admission to "protected monuments"	Exempted w.e.f 15 <sup>th</sup> November 2017
<b>5.</b>	GST rate on job work services in relation to manufacture of those handicraft goods in respect of which the casual taxable person has been exempted from obtaining registration	5% with ITC w.e.f 15 <sup>th</sup> November 2017

*Comment: Revised rate of GST is not 'optional' in respect of restaurant services. Accordingly, credit availed and remaining unutilized as at 14<sup>th</sup> November 2017 will need to be extinguished in accordance with section 18(4) of CGST Act.*

*[Press Release on GST rate changes dated 10<sup>th</sup> November 2017, Notification No. 47/2017- Central Tax (Rate) dated 14th November 2017 and Notification No. 46/2017 dated 14th Nov, 2017, Notification No. 48/2017-Integrated Tax (Rate) dated 14<sup>th</sup> November 2017, Notification No. 49/2017- Integrated Tax (Rate) dated 14th November 2017*

**GST Council Recommended Composition Scheme threshold to Rs 2 crore:** Annual turnover eligibility for composition scheme will be increased to **Rs 2 crore** from the present limit of **Rupees 1 crore** under the law.

Thereafter, eligibility for composition scheme upto Rs.1.5 crore will be allowed to composition taxpayers.

*Comment: Operative notification giving effect to the above Council decisions are awaited.*

*[CBEC Press Release dated 10th November 2017]*

**No GST on advance received against supply of GOODS for all assesses**

The CBEC vide Notification No. 66/2017 – Central Tax dated 15<sup>th</sup> November 2017 notified that the registered person who did not opt for the composition levy under section 10 of the CGST Act as the class of persons who shall pay the central tax on the outward supply of goods at the time of supply as specified in clause (a) of sub-section (2) of section 12 of the said Act including in the situations attracting the provisions of section 14 of the said Act, and shall accordingly furnish the details and returns as mentioned in Chapter IX of the said Act and the rules made thereunder and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act.

Comment: Therefore all persons (below or above 1.5 cr limit) shall not be required to pay tax on advance received against future **supplies of goods**. This facility was allowed only to persons below the 1.5 cr limit which will continue to enjoy the relaxation from 13<sup>th</sup> October 2017 but all other taxable persons (other than composition) will now enjoy from 15<sup>th</sup> November 2017 onwards.

[Notification No. 66/2017 – Central Tax dated 15<sup>th</sup> November 2017, Notification No. 40/2017 – Central Tax dated 13<sup>th</sup> October 2017]

**Return Filing**

To facilitative measures for taxpayers, the CBEC vide Notification no. 56 to 64 dated 15<sup>th</sup> November 2017 notified following changes in view of the difficulties being faced during the return filing process, the return filing process is to be further simplified in the following manner: -

All taxpayers would file return in FORM GSTR-3B along with payment of tax by 20<sup>th</sup> of the succeeding month till March 2018.



**CA Divyang Thakker**

## **A. Supreme Court**

### ***DCIT v. ACE Multi Axes Systems Ltd. [2017] 88 taxmann.com 69 (SC)***

Even though eligible business of an assessee is given benefit of deduction under section 80-IB on assessee satisfying conditions mentioned in sub-section (2) of section 80-IB, yet benefit of said deduction can be denied subsequently on ground that during 10 consecutive years, it ceases to be a small scale industry.

### ***Commissioner of Income-tax v. Modipon Ltd. [2017] 87 taxmann.com 275 (SC)***

Advance deposit of central excise duty in Personal Ledger Account (PLA) constitutes actual payment of duty within meaning of section 43B and, therefore, assessee is entitled to benefit of deduction of said amount.

### ***DIT v. S.R.M.B. Dairy Farming (P.) Ltd [2017] 87 taxmann.com 288 (SC)***

CBDT Instruction No.3 of 2011, dated 9.2.2011, issued as a measure for reducing litigation by revising monetary limits for filing of appeals by department, would apply even to pending matters.

## **B. Various High Courts**

### ***Maruti Udyog Ltd. v. Commissioner of Income-tax [2017] 88 taxmann.com 98 (Delhi)***

As per AS-2 issued by the ICAI, MODVAT Credit is treated as a separate account where appropriate accounting entries will be made to adjust the excise duty paid out of the said account. It is clear that the debit balance in MODVAT/CENVAT Credit Receivable (Inputs) has to be shown on the assets side, under the head 'advances'. According to the accrual concept of accounting (mercantile system), credit is taken even after the documents evidencing payment of specific duty on inputs are received later than the physical receipt of the goods. The assessee has two options. One, to claim excise duty paid, and other is to claim it under MODVAT credit for utilization at a subsequent point in time. The assessee not having exercised the first option, deduction under section 43B for unutilized MODVAT credit representing excise duty paid on raw material/input that remained unutilized at end of year would not be allowable.

***Advantage Strategic Consulting (P.) Ltd. v. Principal Commissioner of Income-tax [2017] 88 taxmann.com 104 (Madras)***

Where assessee's case was transferred from one place to another in same city after an agreement was arrived at between concerned Heads of department, in view of provisions of sub-section (3) of section 127, assessee could not plead for an opportunity of hearing before order of transfer, as there was no such statutory requirement under Act.

***Commissioner of Income-tax-8, Mumbai v. Parle Soft Drinks [2017] 88 taxmann.com 24 (Bombay)***

Where under master agreement between Coca Cola and Parle group, assessee-sub subsidiary was to be formed for bottling soft drinks for coca cola and as a result of breach of contract by Coca Cola assessee's fundamental right for starting bottling business was taken away, compensation received by assessee from Coca Cola would be treated as capital receipt.

***CIT (LUT) v. ESPN Software India Ltd. [2017] 87 taxmann.com 323 (Delhi)***

Where advertisement revenue was directly co-related to channel viewership and sale of advertisement airtime increased with number of cricketing events, both distribution business segment and advertisement sale segment being closely linked had rightly been aggregated for the purposes of determination of Arm's Length Price (ALP)

### ***C. Various Tribunals :***

***Johnson Matthey Public Ltd. Company v. DCIT (International Taxation) [2017] 88 taxmann.com 127 (Delhi - Trib.)***

Where assessee, a UK based company, provided guarantee to various bankers for extending loan facilities to its Indian subsidiaries, guarantee fee charged by it from those subsidiaries would not fall within expression of 'interest' and in view of clause 3 of Article 23 of India-UK DTAA, in absence of any specific provision dealing with corporate/bank guarantee recharge, same had to be taxed in India as 'other income' as per provisions of Act.

***MSD Pharmaceuticals (P.) Ltd. v. Additional CIT [2017] 88 taxmann.com 54 (Delhi - Trib.)***

Where jurisdictional High Court held that bright line test method was not to be applied for making ALP adjustments in respect of Advertising Marketing and Promotion (AMP) expenses, Transfer Pricing officer (TPO) was not justified in making use of said method for impugned transfer pricing adjustment merely because said decision of High Court was challenged in Supreme Court



## ***Select Case Laws***

### ***Airline Allied Services Ltd. v. DCIT [2017] 87 taxmann.com 281 (Delhi - Trib.)***

Where advances given by holding company to assessee-company were written off by holding company but with clear information that said write off in books of account would not prejudice its right to recover amount from assessee in future, section 41(1) could not be invoked against assessee.

### ***Dahisar Sports Foundation v. ITO (Exemptions) [2017] 87 taxmann.com 313 (Mumbai - Trib.)***

Where main object or purpose of assessee charitable trust was promotion of sports and games, merely because trust collected certain charges from coaching camps meant for promotion of sports and games only could not alter its character of being charitable.

### ***Associated Law Advisers v. ITO [2017] 87 taxmann.com 148 (Delhi - Trib.)***

Where assessee-law firm, following cash system of accounting, received certain advance payments from its clients for making payment of fees to Senior Advocates to appear on behalf of them before High Courts and Supreme Court, since said amount was received by assessee in fiduciary capacity to discharge certain obligations while representing case of its clients before various courts, same could not be brought to tax as assessee's income in year of receipt itself

Workshop on advance excel & Tally for GST :



Inauguration of Advance MCS Batch at Dombivli :



Inauguration of OT Batch at Dombivli :



Seminar on GST and Opportunities in Co-operative :



Mock Test for CPT :



Kit Distribution to Needy Students at Bhiwandi :



**महानगरपालिका शिक्षण विभाग, भिवंडी शाळा क्र. 89 (हिंदी)**  
**शाळा संकेतांक- U-DISE-27210206807 A.O. श्री. मोहिते जाह्नव. C.R.C.**

हुदुदा	जन्म दि.	नो. ला.ता	या.शा.ता.	शाळा व्यवस्थापन समिती	पाठक शिक्षक समिती (P.T.A)	माल
प्रभारी	07/11/76	03/10/07	20/08/2014	1) दिवाकर. साहेबनाथ. चौहान		
उपशिक्षक	21/01/1971	06/12/94	12/09/2014	2) अर्चना. आर. पात		
उपशिक्षक	05/12/1975	06/12/94	18/02/2014	3) श्री. स्वामती अजवाल (बार्डी)		
उपशिक्षक	05/07/1978	07/12/94	18/02/2014	4) प्रविभा. किराण. शर्मा		
उपशिक्षक	02/10/1966	23/01/95	18/02/2014	5) सुनिता. शिवकुमार. बिंद		
उपशिक्षक	18/09/81	03/12/08		6) नमिता. दिवाकर. चौहान		
				7) निर्मला. प्रसूद. गोंड		
				8) सुनिता. सुपद. शर्मा		
				9) इंदिरा. रामधारी. जैसवार		
				10) कमलावती. राविका. चौहान		
				11) करुणिका. चौहान		
				12) सवित्री. चौहान		
				13) माधविका. चौहान		