



# Accountants' Library Newsletter

For Private Circulation Only

December 2016



Dear members

I give my profuse thanks to all of you for your continuous support & advice to improve the services of our esteemed organisation. You are well aware we in the library are making all out effort to update books & records so that our members can update themselves of all recent changes in laws vis a vis developments. We are now planning to install computer for enabling members to update ITAT decisions, Taxation Laws etc.

Our library previously was publishing News letter to apprise the members about latest developments of various laws, ITAT decisions etc. But the same was discontinued for various reasons. Now we have planned for its reintroduction & it gives me an immense pleasure to communicate with you through this news letter. I thank our news letter committee chairman CA Sumantra Guha for his active participation for reintroduction of news letter.

I am extremely honoured to serve this august institution as president & I am confident that with your blessings & support our library will advance further.

Our country at this stage is passing through a very hard time due to demonetization. Our government under the leadership of our prime minister has taken proactive steps to up root the evil of black money from the system. Such a bold step deserves applaud & I sincerely feel that our economy will turn around in coming years.

In the year 2016-17 we have planned to hold a good number of CPE hours programme to apprise the members of all developments in Income Tax, GST corporate laws etc. We have planned also to hold lectures, meeting on various other subjects of our profession like concurrent audit, Bank audit etc. CA Krishanu Bhattacharjee Chairman of CPE study circle is making all out effort to hold more seminars & meetings in the current year and we have already hold a seminar on GST & Transfer pricing on 17 th Nov 2016 which was attended by large number of members of our fraternity. I thank him for his all out effort. Our Annual seminar will be held on 10 th December 2016 followed by another CPE seminar I hope members will enrich themselves by attending those seminars.

At the end I wish a grand success for coming annual conference & thank all the members of committee of management for their timely guidance & support.

Thank you all.

CA Tushar Kanti Basu.

President  
10th Dec. 2016



Dear Members,

Seasons Greetings!

At the very outset I would like to thank our President CA. Tushar Kanti Basu and members of the Managing Committee of the Accountants Library for giving me this opportunity of publishing this 1<sup>st</sup> Newsletter for the year 2016-17.

You will agree that our profession is at a very crucial juncture at present and we need to transform the challenges we are facing into opportunities. There has been a sea change in almost all spheres – the introduction of GST being the biggest challenge as we need to be adept with this new law and also adapt ourselves to it.

This 1<sup>st</sup> edition of our Library's Newsletter covers articles on Revised GST Law, National Company law Tribunal and impact of Demonetization on the Indian economy.

We hope you will enjoy going through the Newsletter. We would be happy to get your feedback which would go a long way in inspiring us to make necessary improvements in future.

Wishing you a Merry Christmas and a very Happy new Year in advance.

With warm regards,  
CA. Sumantra Guha  
Chairman, Newsletter Sub Committee  
10<sup>th</sup> December, 2016





Glimpses of 66<sup>th</sup> Annual General meeting held on 23<sup>rd</sup> September, 2016 at Accountants' library



Luncheon Meeting at Calcutta Club with Income Tax Appellate Tribunal Members on 23<sup>rd</sup> September, 2016



CA. Tushar Kanti Basu incoming President of the Accountants' Library being welcomed by CA. Barun Kumar Ghosh, Immediate Past President.



Gathering at the Calcutta Club on 23<sup>rd</sup> September, 2016 during Lunch.



Cross section of the audience on 17.11.2016 at the CPE Seminar at Multipurpose Hall



CA. Arun Kumar Agarwal speaking on GST. CA. Krishanu Bhattacharyya, Chairman CPE Sub - Committee looks on.



CA. Tushar Kanti Basu, President of the Library speaking at the Multipurpose Hall on 17.11.2016



CA. Vivek Newatia speaking on Domestic and International Transfer pricing on 17.11.2016



## **ACCOUNTANTS' LIBRARY IN HISTORICAL PERSPECTIVE**

### **FORMATION:**

Sometime towards the end of 1947, the then leading practising Accountants being Registered Accountants and/or Incorporated Accountants (England & Wales) decided to form the Accountants' Library. In their efforts they were actively encouraged by the then Commissioner of Income Tax – Late S.D.Nargorwala and Late N.Dandekar. They also promptly provided a modest accommodation in the main Income Tax Building in Kolkata for the use by the members of the Accountants' Library.

The Opening Ceremony of the Library Hall in the Income Tax Building was celebrated on the 22<sup>nd</sup> January, 1948.

A special meeting of the Accountants' Library was held on 13<sup>th</sup> December, 1947 wherein the draft constitution of the Library was approved. Following that the Library was registered as a company with liability limited by Guarantee under the then Companies Act, 1913. The first Office –bearers of the Library were :

Late G.Basu as President, Late S.C.Dutt and Late R. Singhi as two Vice Presidents, Late J.Sen as Hon. Secretary, Late N.F.Master as Treasurer and Late H.M.Majumdar, Late A.Basu, Late S.N.Banerjee and Late M.Chatterjee as coordinating members.

Late G.Basu was subsequently elected 2<sup>nd</sup> President of the Institute of Chartered Accountants of India in 1952.

### **OBJECTS :**

i) To maintain two well stocked Libraries for members at Aayakar Bhawan and Income Tax Appellate Tribunal Building at Kolkata with facilities of reading hall.

ii) To Lend Library books to members.

iii) To establish a regular dialogue and develop a system for exchange of views on various issues of Direct Taxes between Income Tax Authorities and Tax Practitioners.

iv) To offer assistance and co-operation to the Income Tax Authorities in the administration of Income Tax Laws.

### **ACTIVITIES :**

(i) The Library, forms time to time, submits Memorandum to Government on Chartered Accountants Acts & Regulations, Banking Companies Amendment acts, Income tax Amendment Acts, Reserve bank of India Acts relating to Non Banking Financial Companies etc. The Library also sends its views to various Taxation enquiry Commissions and Select Committees of parliament on various bills concerning Trade, Commerce & Industry.

(ii) Monthly Study Circle Meetings are held on Taxation, Company Laws, Accountants Audit related issues.



- (iii) Regular meetings are organized with members of Income Tax Appellate Tribunal Central Board of Direct Taxes, Chief Commissioners of Income Tax and other Income Tax authorities on important aspects of Income Tax Laws.
- (iv) Workshop, Seminars, Refresher courses are held within and without Kolkata with adequate facilities to keep the members updated on latest changes in the respective fields of Income – Tax, Corporate Laws and other regulations.
- (v) A Newsletter is being published regularly for Circulation amongst members
- (vi) Besides, the Library, since inception holds luncheon meetings on each occasion of its Annual General Meeting and has been inviting the Income Tax Tribunal Members, Commissioners of Income Tax, Registrar of Companies and others as our honorable guests.
- (vii) On the entertainment front, we annually organize Puja & Deepawali get together and Annual Picnic with the whole hearted participation of our members.

Accountants' Library is registered u/s. 12AA of the Income Tax Act, 1961 and donation made to the Library will also enjoy deduction u/s. 80G of the Act.

**Disclaimer**

The views expressed by the authors on their articles are their own and do not represent the views of the Accountants' Library



## **Sub-Committees**

### **Name of the Sub- Committees**

**Annual Conference**

**CPE Seminar - Convener**

**CPE Seminar – Deputy Convener**

**Library**

**Membership Development**

**News Letter**

**Maintenance of Website and learning resources**

**Public Relation and Co- ordination**

### **Chairman .**

CA. Srikumar Banerjee

CA. Krishanu Bhattacharyya

CA. Animesh Mukhopadhyay

CA. Barun Kumar Ghosh

CA. Ranjit Kumar Ghosh

CA. Sumantra Guha

CA. Tushar Kanti Basu

CA. Santosh Kumar Bajaj

## **Members of the Newsletter Sub-Committee**

**1. CA. Sumantra Guha**

**2. CA. Barun Kumar Ghosh**

**3. CA. Indranil Banerjee**

**4. CA. Animesh Mukhopadhyay**

**5. CA. Manish Tiwari**

**Chairman**

**Member**

**Member**

**Member**

**Member**



## COMMITTEE OF MANAGEMENT 2016-17

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13	CA. Chandan Chattopadhyay	Member	(M) : 98300-53731 ( O ) : 2231-1995/1996/1997 : 2248-1201 ( R ) : 6239-9905	11, Old Post Office Street, Kolkata – 700 001
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16	CA.Sreemati Ghose	Member	(M) : 98310-37528 ( O ) : 2419-8732 ( R ) : 2483-7473	13, Parkside Road, Ground Floor Kolkata – 700 026
17	CA. Radhakanta Chatterjee	Member	( M ) 98301- 09030 ( O ) : 3028-1168 : 2213-2308 ( R ) : 2269-6096	2, G.C. Avenue , 8 <sup>th</sup> Floor, R/No : 8, Kolkata – 700 013
18	CA. Srikumar Banerjee	Member	( M ) : 9830061889 ( O ) : 2546-3305 ( R ) : 6513-4879	152/H, South Sinthee Road Kolkata – 700 050



## **NATIONAL COMPANY LAW TRIBUNAL – SIGNIFICANT SHIFTS TOWARDS DISPUTE RESOLUTIONS**

**CA Animesh Mukhopadhyay**

NCLT was conceptualized by Eradi Committee. It was initially introduced in Companies Act, 1956 in the year 2002 but the provisions of Companies (Second Amendment) Act, 2002 were never notified as they got mired and diluted in litigation surrounding constitutionality of NCLT. Companies Act 2013 Act was enacted and the concept of NCLT was retained. However, the powers and functions of NCLT under 1956 Act and 2013 Act are different. The constitutionality of NCLT related provisions were again challenged and this case was finally decided in May 2015. The Apex Court in *MADRAS BAR ASSOCIATION* case, upheld the constitutionality of the concept of NCLT and NCLAT but some of the provisions on constitution and selection process were found defective and unconstitutional. Finally, Central Government has constituted National Company Law Tribunal (NCLT) under section 408 of the Companies Act, 2013 (18 of 2013) w.e.f. 1st June 2016 after changes made u/s 409(3)(a) and (e), 411(3) and 412(2) as directed by the Hon Supreme Court of India.

In the first phase the Ministry of Corporate Affairs have set up 11 Benches - one Principal Bench at New Delhi and 10 Benches at New Delhi, Ahmadabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guahati, Hyderabad, Kolkata and Mumbai. These Benches will be headed by the President and 16 Judicial Members and 09 Technical Members at different locations.

### **Shifting of jurisdictions from various authorities to NCLT**

**From CLB to NCLT - Oppression and mismanagement u/s 397-398 (Sec 242 under Companies Act 2013) ; Compounding of offence u/s 621A (Sec 441 of the Companies Act 2013); Refusal to transfer/ transmission of shares u/s 111, 111A (Sec 58 of the Companies Act 2013) ; Inspection u/s 234 (Sec 206 of the Companies Act 2013); Investigation u/s 237 (Sec 213 of the Companies Act 2013)**

**From High Court to NCLT - Merger and amalgamation including Demerger u/s 390 – 396A (Sec 230- 240 of the Companies Act 2013); Winding up u/s Sec 433 (Sec 270 of the Companies Act 2013)**

**From BIFR to NCLT- Revival and rehabilitation of sick companies u/s 424A (Sec 253- 269 of the Companies Act 2013)**

**Transition from CLB to NCLT**



The Act has set out in detail the procedure to deal with cases which are pending in various forums in Section 434. At present, Government has notified 1<sup>st</sup> June 2016 for transfer of matters lying at CLB only to NCLT. On that date, all the pending proceedings before CLB has been transferred to NCLT and Tribunal will dispose of such matters in accordance with the provisions of law.

**~~Procedure set out in NCLT~~**

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~~only to NCLT. On that date, all the pending proceedings before CLB has been transferred to NCLT~~  
Some of the important powers that are presently vested with NCLT are as follows:

**1. Class Action:**

Protection of the interest of various stakeholders, especially non-promoter shareholders and depositors, has always been the concern of company law. There were several frauds and improprieties that were noticed where the key losers were the shareholders and depositors. Recent incidents of money market scams and hapless conditions of poor and small depositors can be considered as a disturbing but true instance in this regard. The *Companies Act, 2013* has provided remedies where the offender will be punished and the people who are involved (whether it is the company or directors or auditor or experts or consultants) will be liable for a civil action (namely class action), wherein they have to compensate the shareholders and depositors for the losses caused to them on account of the fraudulent practices or improprieties.

A class action is a procedural device that permits one or more plaintiffs to file and prosecute a lawsuit on behalf of a larger group, or "class". It is in the nature of a representative suit where the interest of a class is represented by a few of them. A huge number of geographically dispersed shareholders/depositors are affected by the wrongdoings. It is a useful tool where a few may sue for the benefit of the whole or where the parties form a part of a voluntary association for public or private purposes.

Section 245 is the guiding section to provide relief to the investors against a large set of wrongful actions committed by the company management or other consultants and advisors who are associated with the company. Class action can be filed against any type of companies, whether in the public sector or in the private. It can be filed against any company which is incorporated under the *Companies Act, 2013* or any previous *Companies Act*. The Act provides only one exemption i.e. banking companies.

**2. Deregistration of Companies:**

The procedural errors at the time of registration can now be questioned at any time. The Tribunal is empowered to take several steps, including cancellation of registration and dissolving the



company. The Tribunal can even declare the liability of members unlimited. Sec 7(7) provides this new way for de- registration of companies.

### **3. Oppression and Mismanagement:**

The remedy of oppression and mismanagement is retained in 2013 Act. The 2013 Act has reset the bar for oppression to a little lower level but has set the bar of mismanagement a little higher by applying the test “winding up on just and equitable grounds” even to mismanagement matters.

### **4. Refusal to Transfer shares:**

The power to hear grievance of refusal of companies to transfer securities and rectification of register of members under Section 58 and 59 of the new Act were already notified and were being taken up by CLB. Now it has been transferred to NCLT. The remedy for refusal to transfer or transmission was restricted only to shares and debentures under 1956 Act. The provisions for refusal to transfer and transmit under *Companies Act, 2013* extends to all securities.

### **5. Deposits:**

Chapter V dealing with deposits was notified in phases in 2014 and powers to deal with the cases under it were assigned to CLB. Now the said powers have been vested with NCLT. The law on deposits is quite distinct under the *Companies Act, 2013* as compared to the *Companies Act, 1956*. Aggrieved depositors also have the remedy of class actions for seeking redressal for the acts/omissions of the company which hurt their rights as depositors.

### **6. Reopening of Accounts & Revision of Financial Statements:**

Several instances of falsification of books of accounts were noticed under the *Companies Act, 1956*. For the first time, to counter this illegal and unethical practice, several measures have been provided in the *Companies Act, 2013*. One such measure is the insertion of Section 130 and 131 read with sec 447, 448 in the new Act. Section 130 and 131 provides the instances where financial statements can be revised/ reopened. In Section 130, it is mandatory to have directions from NCLT/ Court to reopen its accounts when certain circumstances are shown. Section 131 allows company to revise its financial statement but do not permit reopening of accounts. The company can itself approach the Tribunal under sec 131, through its director for revision of its financial statement.



### **7. Tribunal Ordered Investigations:**

Chapter XIV provides several powers to the Tribunal in connection with investigations and those are as follows:

*a) power to order investigation:* only 100 members (as against 200 members required under the *Cos Act, 1956*) are required to apply for an investigation into the affairs of a company. An investigation can be conducted even abroad. Provisions are made to take as well as provide assistance to investigation agencies and courts of other countries with respect to investigation proceedings.

*b) power to investigate into the ownership of the company*

*c) power to impose restriction on securities:* The restriction earlier could be imposed only on shares. Now, this is applicable for any security of the company.

*d) power to freeze assets of the company:* The Tribunal is given the power to freeze assets of the company which cannot be used when the company is under investigation.

### **8. Conversion of public company into private company**

Sections 13, 14, 15 and 18 of the *Cos Act, 2013* read with rules regulate the conversion of public limited company into private limited company. It requires approval from the NCLT. The Tribunal may, at its discretion impose certain conditions.

### **9. Tribunal Convened AGM:**

General meetings are required to assess the opinion of shareholders from time to time. The Act mandatorily requires one meeting to be called, which is termed as the "annual general meeting" or 'AGM'. Any other general meeting is termed as "extra ordinary general meeting". If the AGM or EGM cannot be held, called or convened in the manner provided under the Act or the Rules by the Board or the Member due to certain extraordinary circumstances, then the Tribunal is empowered under Section 97 and 98 of *Cos Act 2013* to convene general meetings.

### **10. Compounding of Offence:**

Provisions of compounding under the 2013 Act were notified before the constitution of NCLT and were assigned to CLB. This power will now be vested with NCLT, and all compounding matters which are above the prescribed monetary limit (Rs 5 lacs at present) will be approved by NCLT.



### **11. Change in Financial Year:**

Sec 2 (41) has been already notified on 1 April 2014. The Act requires that every company or body corporate, new or existing, must have a uniform financial year ending on 31<sup>st</sup> March. It provides an exception where certain companies can apply to the Tribunal to have a different financial year. A company or a body corporate can make an application to the Tribunal. As the Tribunal was not notified at the time when this section was notified, the power to alter the financial year on application was granted to the CLB. All the application that are not disposed of at the time when NCLT provisions are notified, will also be transferred to the Tribunal.

### **Conclusion**

NCLT is the first forum in the hierarchy of quasi judicial fora set up under Co Act 2013. Thus, NCLT would not only deal question of law but also consider question of facts. National Company Law Appellate Tribunal (NCLAT) is the first appellate forum under the Companies Act 2013 to examine the orders of NCLT and can revisit the factual as well as the legal issues. Chartered Accountants can provide services to both these forums as representation of the case at NCLT under Sec 432 of the Cos Act 2013 and with NCLAT under Rule 63 of NCLAT Rules 2016. This is a huge opportunity for the entire fraternity including the opportunities for representing cases under Insolvency and Bankruptcy Code 2016 for corporate defaulters.

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## Impact of Demonitization on the Indian Economy

CA. Manish Tiwari

In a surprise address to the nation on Tuesday 8<sup>th</sup> of November, 2016 the Hon'ble Prime Minister Mr Narendra Modi made a historic announcement that Rs 500 and Rs 1000 notes would cease to be a legal tender at the stroke of midnight. Aimed at combating corruption, black money, fake money, this move has surely caused short term pain and chaos for the general class, small businesses and nearly anybody who deals with cash on a daily basis has not remained untouched.

The decision was primarily designed to flush out black money into the India's financial system and stamp out the increasing menace of fake notes circulating in the Country which is estimated at \$ 2 trillion. The Rs 500 and Rs 1000 notes which were hoarded by anti-national and anti-social people just became worthless bit of paper. In my considered view, this surgical strike on the fake currency notes has resulted in breaking the back bone of the terrorist outfits. Further, the threat of black money has grown so much so that it has weakened the efforts to remove poverty from the country. The entire nation has supported this move as the nation believes that there was no other alternative to end circulation of unaccounted wealth and fake notes floating across the country. Moreover, this cripples the efforts of criminals involved in money laundering.

This move is surely going to result in a reduction of inflation as conspicuous consumption will come down.

This kind of move was brought by twice earlier in the Indian History. Once in year 1964 and other by Morarji Desai's Government on 16<sup>th</sup> of January, 1978, when high value notes of Rs 1,000, Rs 5,000, and Rs 10,000 were discontinued. That scheme impacted only the super-rich because most households rarely held these notes. The Rs 1,000 notes were re-introduced later.

The immediate impact of demonetization drive on the economic, business and household doesn't look too good. This demonetization drive has surely caused cash crunch which has practically paralyzed economic activity in the short term. The disruption to the economy is estimated such that there will be possibly, no growth in the last quarter of the year or may be actually a shrinking of the economy. One more impact which is predicted in the informal sector i.e the non-tax paying businesses (estimated at



40% share in GDP) will become unviable and cede market share to the organized sector counterparts. This shall result in falling of GDP growth in India in FY 18. The growth estimate of 7.3 % in GDP shall take a hit and may ultimately settle at around 5.8%. However, it's just a possibility and not a certainty as economies are complex things with many fluid factors in the market. The other good factor is that the inflow of money into bank accounts will surely reduce interest rates and that has a stimulatory effect upon the economic growth as well. This may result in reducing the budget deficit as some of this money gets taxed.

Concerns have been raised that some of the existing provisions of the Income-tax Act, 1961 ('Act') could possibly be used for concealing black money. So, the Government has introduced Taxation Laws (Second Amendment) Bill, 2016 in the Lok Sabha to amend the provisions of Income-Tax Act which has also been passed in the Lok Sabha.

The Government has announced Pradhan Mantri Garib Kalyan Yojana 2016 (PMGKY) in the Taxation Laws (Second Amendment) Bill, 2016. As per this PMGKY black money deposited in banks or held in cash can be offered for taxation at 49.9% (i.e., 30% tax, 9.9% surcharge and 10% penalty).

It is inferred that Income-tax department will not ask for the source of funds deposited in banks if the entire income is declared under PMGKY.

It has come out to be one last opportunity for black money holders to declare their cash income and come clean. Any detection of black money by AO thereafter (other than search cases) would attract 83.25%.

From the reading of this amended bill it is clear that any criminal or corrupt person cannot avail of benefit of this PMGKY as he is specifically excluded from purview of PMGKY.

Even if we assume that any corrupt person or any criminal has availed of benefit of this PMGKY, then also benefit of such PMGKY will be denied when such fact comes to notice of the dept. In that scenario, action will be taken under respective provision of IPC and Prevention of Corruption Act and that person will be liable to pay tax at 83.25%.

To end This article, I feel that some more time is required to understand and assess the impact of demonitization on the Indian Economy.



## **The Revised Model GST Law**

**CA. Abhisek Tibrewal**

The developments on the front of introduction of Goods and Services Tax in India have been going through a roller coaster ride ever since the conception of this idea. With the Model GST Law being released in June 2016 and the Constitution of India being amended thereafter for institution of empowering provisions, the implementation now seems to be a reality. However, the Model GST Law released by the Empowered Committee of State Finance Ministers in June 2016 for public comments, received numerous suggestions for addressing varied issues, some necessary and some recommendatory.

The GST Council Secretariat, on 25<sup>th</sup> November, 2016, recommended a Revised Model GST Law. This model law caters to some quite necessary recommendations as suggested by various forums and institutions. The revised Model Law has somewhat reinstated the faith towards introduction of simplified and much transparent GST regime in India. Though the changes made are vast implicating and need critical analysis at every juncture, a brief outlay of most prominent changes is enlisted hereunder.

### **Anti-profiteering measures**

The implementation of GST in most of the countries in the past has been followed by a steep inflation in the country. This has also been a major concern amidst all levels of policy makers in India and the measure and methodologies for addressing such ill effects of new tax policy needs thorough designing and attention.

The most evident reason for inflation has been found out to be the non-passage of GST benefits onto the end consumers, who are the bearer of incidence of tax liabilities. Many countries implemented anti-profiteering measures under their GST laws to curb retention of benefits by business. Such measures were however absent in the June version of the model law for India.

The revised Model GST Law provides for a miscellaneous provision under section 163, being referred as 'anti-profiteering measures'. It has been prescribed here that the Central Government might constitute an Authority or entrust an existing Authority constituted under any present law, to



examine whether benefits under the GST regime are duly passed on by a registered taxable person or not. The benefits have been mentioned specifically to include examination as to whether prices of goods or services have been commensurately reduced on reduction of GST Rates or because of input tax credits availed by such person.

It may be construed that businesses will have to justify the variance between current and GST regime profit levels. As all good things bring along a concern, this provision shall certainly be a grey area and major point of concern unless and until the authority is transparent, controlled and unbiased.

#### **GST Rate Capped**

It was the foremost demand of opposition that the Rate of GST should be capped in the Constitution of India itself. The Government somehow managed to do away with this demand and get the sanction accorded upon the Constitution Amendment Bill.

The Model GST Law now prescribes a Cap of 14% on rates of CGST and SGST each and a cap of 28% on the rate of IGST. The capping of CGST and SGST both at 14% hints upon the equitable rates of the State and Centre GST as was conceptualized initially.

#### **'Securities' not considered as Goods**

The June version of the Model GST Law defined 'Goods' so as to include 'Securities'. This inclusion had a major impact on Securities Market since currently neither VAT nor Service Tax is charged on securities per se. Bringing securities under the ambit of GST would have been a major departure from current taxation policies.

The new draft puts an end to the issue by excluding securities from the definition of goods. However, an ambiguity still persists since 'services' have been defined to mean 'anything other than goods'.

#### **Aggregate Turnover defined rationally**



In the June version of Model GST Law, aggregate turnover was defined to include 'non-taxable supplies'. This definition could have had undesired implications on persons engaged in non-taxable supplies.

The revised model law has defined aggregate turnover rationally by excluding 'non-taxable supplies' from the ambit. Furthermore, inter-state supplies have been specifically included in the definition of aggregate turnover, which instead could have opened the litigation gates in future,

#### **Seamless Input Tax credit**

The GST regime promises a seamless flow of input tax credit throughout the supply and value chain. The June version of Model GST Law however came up as a shock so far as the restrictions on flow of tax credit defeated the much highlighted seamless flow concept.

The revised model law has considerably addressed the issue and much liberal rules (as compared to earlier model law) for credit availment and utilization have been brought into play.

Capital Goods, Inputs and Input Services have been re-defined to broaden the base and cover more and more commodities and services. At the same time, some necessary restrictions and bar continue to be in force.

#### **The Principal Agent Concept**

The provision for deeming transaction between a principal and an agent as supply of goods or services has now been restricted to only goods. It provides a great relief to services.

#### **Composite versus Mixed Supply**

The ever ambiguous concept of composite supply has been differentially treated with the introduction of concept of 'mixed supply'.

It has been prescribed that 'composite supplies' shall be treated as the supply of goods or service which plays the dominant role whereas in case of 'mixed supplies', the goods or service being taxable at the highest rate shall take the determining role.



The extent to which such provisions shall reduce litigations and confusions shall be an unanswered question, but the efforts are worth a thought.

### **Revisited Transitional Provisions**

Transition into the GST regime from the existing taxation nets is the biggest challenge and concern for businesses and trade houses by and large. The Government has to ensure a friction less and hassle free transition so as to gain the confidence and support of trade, commerce and industry. Any deficiency in the transitional window might create unwanted havoc in the business sectors and negatively impact the purpose of GST introduction.

The earlier model GST law though provided for elaborate transitional provisions, at the same time it left a lot of questions unanswered. The revised Model GST Law seems to have addressed most of the industry's concerns so far as the transitional provisions are concerned. The transition provisions now deal with situations of first and second stage dealers and dealer importers to maintain the credit chain. Dedicatory provisions in respect of credits seemingly thought to be lost due to currently enjoying exemptions and abatements have raised the hopes high. There are numerous such changes which are comprehensive and commendable.

### **Food for thought**

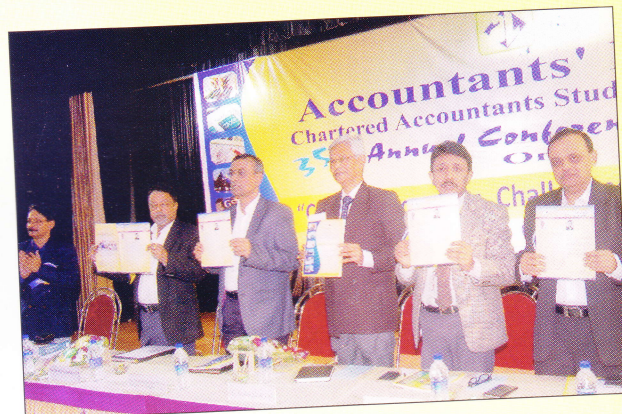
The suggestions of various forums have been taken care but as is not possible, all haven't been secured. The efforts of the team behind the GST implementation in India are commendable and the pace of developments in this front is ever-growing and compounding at all levels. Getting GST ready is the right thing to at this time!



## 35<sup>th</sup> Annual Conference 2016-17



Lighting of the Inaugural Lamp



Release of the NewsLetter & Souvenir



Felicitation of the Inaugurator



1<sup>st</sup> Technical Session in progress



Panel Discussion in the  
2<sup>nd</sup> Technical Session



3<sup>rd</sup> Technical Session on GST



## COMMITTEE OF MANAGEMENT FOR THE YEAR 2016-2017



Standing from Left : CA. Krishanu Bhattacharyya, CA. Chandan Chattopadhyay, CA. Anindra Nath Chatterjee, CA. Malay Goswami, CA. Sumantra Guha, CA. Indranil Banerjee, CA. R. K. Chatterjee, CA. Indu Chatrath, CA. Animesh Mukhopdhyay, CA. Kaushick Mallick,

Sitting from Left : CA. Ranjit Kumar Ghosh, CA. Debasish Mitra, CA. Srikumar Banerjee, CA. Sreemati Ghose, CA. Barun Kr. Ghosh  
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