



Bangalore Branch of SIRC e-Newsletter

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**Happy
Independence Day**



One Day Seminar on
**RERA, Benami Act &
Other Laws Relating to the
Real Estate Sector**
on 19th August, 2017

One Day Seminar on
ICDS & Tax Audit
on 1st September, 2017

One Day Seminar on **GST**
"Samvarthaka"
- Be a GST Compliant Assessee
on 9th September 2017



Inauguration of 'Aavarthana' - 14th Karnataka State Level Two Day GST Conference

Chairperson's Communique . . .



**Dear Professional Friends,
Hearty greetings to all of you.**

This month we would be celebrating the 71st year of Indian Independence. With this very thought let me wish you all; a very happy Independence Day on 15th August 2017. India being a Sovereign country for more than 7 decades, had grown leaps and bounds in the field of Literacy, Health, Infrastructure, Information Technology etc. As CAs we play a key role in the economic wellbeing of our

Nation. We all should uphold the glory of our motherland by our dedicated services; strictly adhering to transparency, integrity and values and I believe that we as professionals are leaving no stone unturned to comply with our ethical standards. We, at Bangalore Branch of SIRC of ICAI are celebrating the Independence Day at the Institute premises on **15th August 2017 at 9.30 am.** I would earnestly invite all our esteemed members to be part of this function and rejoice the spirit of freedom.

Programmes held in July 2017.

➤ **CA day celebration on 1st July 2017 along with GST implementation day.**

CA. S.G. Balekundri, a senior most renowned Member from Belgaum was the Chief Guest for the event. His address filled with rich experience was a beacon of light, rejuvenating the team spirit and his talk shimmered the sense of belongingness to our Alma Mater ICAI.

July 1st is also doctor's day and **Dr. Vijayalakshmi Balekundri** emphasised the fact that the Doctors have to take care of human health, similarly CAs have to give due importance to Financial health of our Nation. Thereafter, we had an informative address by **CA. Sampath Kumar** on New Syllabus, which was of immense help to the student delegates.

- The Programme was followed by **blood donation camp.**
- The same day i.e. on 1st July evening, discussion on **GST impact, was organised.** We are happy to inform you that around 1100 delegates (CAs and Non CAs) attended this special event.
- **CA. V. Raghuraman, the renowned Resource person of ICAI** addressed the Members on **Transitional Provisions on GST, stock, invoices, return filings etc.** and clarified the queries of many members and public at large.
- The event also witnessed the august presence of the three Union Ministers.
 - **Shri. Prakash Javadekar**, Honourable Union Minister for Human Resource and Development addressed the delegates on **Benefits of GST to General Public.**
 - **Shri Ananth Kumar**, Honourable Union Minister for Parliamentary Affairs, spoke on **GST way forward.**
 - **CA. Suresh Prabhu** Honourable Union Minister for Railways had a talk on **Impact of GST on Indian Economy.**
- **"Aavarthana" – Accelerating Professional growth, the 14th Mega State Level GST Conference on 8th and 9th July 2017** was a remarkable event for the Bangalore Branch of ICAI. The Chief Guest **Shri Ananth Kumar, Union Minister of Parliamentary Affairs, Chemicals & Fertilizers and Guest of Honour Shri Shankar Bidari, IPS (Retd.), Former DGP, Government of Karnataka** appreciated the Professional Fraternity for their dedicated service and urged to continue the

same, safeguarding the interest of our profession. CA. Cotha S Srinivas, Chairman, SIRC of ICAI Graced the occasion with His esteemed presence. He also gave a brief about the benevolent fund contributed by Members, appreciated them and requested the Members to continue the same. The deliberations by the eloquent speakers on the various issues pertaining to GST implementation, was a knowledge feast for all of us.

Programmes to be held in August 2017.

Real Estate Transaction is one of the trending topics for which many members have requested us to organise one-day knowledge dissemination program. Hence, a Seminar on **RERA, Benami Act and other Laws relating to the Real Estate Sector has been organised on 19th August, with the unstinted support of CA. Ashok Raghavan and Team.** August and September being busy months for members as most of them would be engaged in Tax Audit, we have planned only very few Programmes apart from regular Study Circle meets. **One day Seminar on ICDS and Tax Audit is being organised on 1st September 2017.** The details of the said Programme are published elsewhere in this Newsletter.

We have also planned **"Samvarthaka" – be a GST Compliant Assessee on 9th September 2017.** Members are requested to participate actively in all the Programs and get benefited.

➤ **CA, CPT & Final result:**

Happy to announce that, the May 2017 results of Final and CPT July 2017, exams were announced on 18th July and this time, Final pass percentage stood at 26% - which reflect the dedication, ardent work put in by our students and faculty members.

➤ **GST Sahayatha Desk**

GST Sahayatha Desk was launched at Race Course Road sub branch Office to clarify various issues pertaining to GST, thus serving Members and Non-Members.

➤ **49th SIRC conference**

I am delighted to inform you that 49th SIRC conference will be held in Bangalore on **22nd and 23rd December 2017.** We will be informing the details, in due course of time. You are requested to **BLOCK THESE 2 DAYS**, in your calendar and make this special Mega Event, a grand success with your support and guidance.

➤ **SICASA ACTIVITIES**

I'm happy to place on record and congratulate CA. B.T. Shetty, Chairman of SICASA and the team of students for having conducted innumerable programmes and the recent Sports meet held on 22nd & 23rd July 2017, for the benefit of students.

On behalf of the entire Professional Fraternity of Bangalore Branch, let me congratulate **CA. Raghavendra T N, President** and his new team of Executive Committee Members of Karnataka State Chartered Accountants Association (**KSCAA**). I'm confident that, the dedicated team with the able leadership of CA. Raghavendra T N, will take KSCCA, to greater heights.

As quoted by our beloved Past President of India, **Late Dr. A.P.J. Abdul Kalam**, '*Dream is not that which you see while sleeping, it is something that does not let you sleep.*' I appeal to all the members and students to dream big in life. Dreams are the seeds of evolution and progress. Dream on, move on, and let us march towards excellence and make ICAI – **the LARGEST Accounting Body in the world!** in due course of time.

With warm regards,

CA. Geetha A.B.

Chairperson

Bangalore Branch of SIRC of ICAI

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CALENDAR OF EVENTS - AUGUST & SEPTEMBER 2017

DATE AND DAY	TOPIC / SPEAKER	VENUE/TIME	CPE CREDIT
02.08.2017 Wednesday	Start Up Company – Tax Regulatory Aspects CA. Vijay Gilda	Branch Premises 6.00 pm to 8.00 pm	2 hrs
09.08.2017 Wednesday	Study Circle Meet on GST Scope of Supply, Levy of Tax, Composition Levy, Migration and Fresh Registration, Invoice, Debit and Credit Notes. CA. Rishika S Pardikar	Branch Premises 6.00 pm to 8.00 pm	2 hrs
11.08.2017 Friday	"MANTHANA" "GST – Business process on GSTN" - An interactive session Dr. B.V. Murali Krishna, <i>Joint Commissioner of Commercial Taxes (e-audit unit), Commercial Taxes Department, Government of Karnataka</i>	Branch Premises 6.00 pm to 8.00 pm	2 hrs
15.08.2017 Tuesday	71st Independence Day Flag Hoisting & Celebration	Branch Premises 9.30 am to 11.30 am	—
16.08.2017 Wednesday	Emerging Business Models for Manufacturing Services / Businesses – Evaluation & Assessment CA. Anjana Vivek	Branch Premises 6.00 pm to 8.00 pm	2 hrs
17.08.2017 Thursday	Study Circle on GST Sector Specific Issues in GST - Manufacturing / Textile / Wholesale / Retail / Job work etc. CA. Rishabh Singhvi Delegate Fee: Rs. 200/- High tea: 6.00 pm	Branch Premises 5.00 pm to 8.00 pm	3 hrs
19.08.2017 Saturday	One Day Seminar on RERA, Benami Act & Other laws relating to the Real Estate Sector Delegate Fee (Inclusive of Tax): Rs. 1500/- for Members & Rs. 5000/- for Non-Members <i>Details in Page No: 14</i>	Pai Vista Convention Hall , South End Circle, Patalamma Temple Street, Bangalore-4. 09.45 am to 5.30 pm	6 hrs
23.08.2017 Wednesday	Recent Changes in Assessment Procedure & Joint Development Agreements CA. G.S. Prashanth	Branch Premises 6.00 pm to 8.00 pm	2 hrs
30.08.2017 Wednesday	Accounting for Deferred Taxes CA. Madhusudhan Kankani	Branch Premises 6.00 pm to 8.00 pm	2 hrs
01.09.2017 Friday	One Day Seminar on ICDS & Tax Audit CA. K. Gururaj Acharya & CA. Manohar Gupta Delegate Fee (Inclusive of Tax): Rs. 1000/- for Members & Rs. 3000/- for Non-Members <i>Details in Page No: 16</i>	Devraj Urs Auditorium , (opposite to Bangalore Branch of SIRC of ICAI) 10.00 am to 5.30 pm	6 hrs
06.09.2017 Wednesday	New Penalty Provisions – 270A & 270 AA CA. Naveen Khariwal G	Branch Premises 6.00 pm to 8.00 pm	2 hrs



CALENDAR OF EVENTS - SEPTEMBER 2017

DATE AND DAY	TOPIC / SPEAKER	VENUE/TIME	CPE CREDIT
09.09.2017 Saturday	One Day Seminar on GST "Samvarthaka" - Be a GST Compliant Assessee Delegate Fee (Inclusive of Tax): Members: Rs. 1000/-, Non Members Rs. 3000/- <i>Details in Page No: 15</i>	Jnana Jyothi Auditorium, Central College Campus, Palace Road, Bangalore-1. 9.45 am to 5.30 pm	6 hrs
13.09.2017 Wednesday	Professional Ethics CA. Vasuki H S	Branch Premises 6.00 pm to 8.00 pm	2 hrs
20.09.2017 Wednesday	GST : Issues in place of Supply CA. Sai Prasad A	Branch Premises 6.00 pm to 8.00 pm	2 hrs
27.09.2017 Wednesday	Main Features of Insolvency & Bankruptcy Code CA. Rama Rao	Branch Premises 6.00 pm to 8.00 pm	2 hrs

AN APPEAL TO MEMBERS

Members are requested to pass on the below mentioned information to students.

ANNOUNCEMENT: Kind Attention IPCC and Final Students

IPCC and Final Pre-exam Crash course for November 2017

Examination will be conducted **between 04th Sept 2017 and 19th Sept 2017** at Bangalore Branch of SIRC of the ICAI, Vasanthnagar, Bangalore – 5600052. Expert and experienced members of the Faculty will be conducting the sessions.

For more details, visit website: www.bangaloreicai.org

RANK HOLDERS

IPCC MAY 2017 EXAM

Name	SRO NO	Marks Obtained	Rank
Shruti Bhansali	SRO0479174	515	26
Larissa Austin Saldanha	SRO0587085	506	33
Vishal B S	SRO0586557	500	39

Kind Attention: Members

Members are requested to pass on the information to their clients

COURSE ON FINANCE FOR NON-FINANCE EXECUTIVES

(WITH SPECIAL FOCUS ON GST)

Sub: XX Batch of the Course on Finance for Non-Finance Executives – A Management Development Programme

The course is **open for Non-Finance Executives** such as Engineers, Architects, Doctors, Human Resource Personnel, Department Heads / Administrators / Entrepreneurs and various other professionals, those who are not having adequate knowledge of Accounts / Finance. The course does not call for any prior knowledge in Accountancy, Finance and Tax Laws. The course coverage will be basic in all subjects.

Course Contents:

- Project Reports
- Financial Accounts & Company Accounts
- Direct Taxes
- Financial Analysis
- GST
- Corporate Finance
- Cost Accounts

Duration: **September 2017 to January 2018**, Timings: **02.00pm to 07.00pm (Only on Saturdays)**

Course Fee: **Rs.15,000/-** per participant. Mode of payment: DD/Cheque in favour of **Bangalore Branch of SIRC of ICAI**

Contact Tel: **080 - 30563500 /512** | E-mail: blrprogrammes@icai.org | website: www.bangaloreicai.org

THE KARNATAKA REAL ESTATE (REGULATION AND DEVELOPMENT) RULES, 2017 ("KARNATAKA RULES" OR "RULES")



CA. Sandeep Jhunjunwala & CA. Richa Kalra

The Real Estate (Regulation & Development) Act 2016 ("RERA") along with the notified state-wise rules have modified traditional practices and have brought out a more professional approach amongst the real developers. With a focus on improving the transparency, governance and accountability in the sector, the law surely seems to segregate the quality and time-focused developers from casual operators. The Ministry of Housing & Urban Poverty Alleviation had set October 31, 2016 for States to frame Rules under RERA and April 30, 2017 as the deadline to establish Real Estate Regulatory Authority/Appellate Tribunal. However, almost all states had missed the bus and had been largely non-compliant. Karnataka was among the first few States in India to release the draft rules for public consultation in October 2016. The Karnataka Government has now, albeit with a delay, notified the much awaited Karnataka Rules on July 10, 2017.

KARNATAKA RULES IN A NUTSHELL

Registration fee

The registration fee for various types of projects (group housing, commercial, mixed development, plotted development) as specified under the Karnataka Rules has been summarized in the table below:

Type of project	Proposed area of land to be developed <1000 square meters	Proposed area of land to be developed >1000 square meters	Cap on fee
Group housing project	INR 5 per square meter	INR 10 per square meter	INR 500,000
Mixed development (residential and commercial) project	INR 10 per square meter	INR 15 per square meter	INR 700,000
Commercial projects	INR 20 per square meter	INR 25 per square meter	INR 1,000,000
Plotted development projects	INR 5 per square meter		INR 200,000

Ongoing projects - excluded from the ambit of RERA?

One of the biggest highlight of the Karnataka Rules revolves around the aspect of "ongoing projects". As per the Karnataka Rules, an "Ongoing project" means a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfill any of the following criteria on the date of notification of these rules:

- in respect of layouts where the streets and civic amenities sites and other services have been handed over to the Local Authority and Planning Authority for maintenance;
- in respect of apartments where common areas and facilities have been handed over to the registered Association consisting of majority of allottees;
- where all development works have been completed as per the Act and certified by the competent agency and sale/ lease deeds of sixty percent of the apartments/ houses/ plots have been registered and executed;
- where all development works have been completed as per the Act and certified by the competent agency and application has been filed with the competent authority for issue of completion certificate/ occupation certificate; and
- where partial Occupancy Certificate ("OC") is obtained to the extent of the portion for which the partial Occupancy Certificate is obtained.

Additionally, the Department of Housing, Government of Karnataka issued a press release on July 14, 2017 aiming to clarify few aspects relating to



"ongoing projects". The press release addresses matters that include definition of development works, the competent agency to certify the completion of works and the competent authority to issue of completion certificate and occupancy certificate. However, it is also important to note that in Karnataka, sale deeds are executed only after the projects are completed, hence bringing under its coverage, almost all ongoing projects. One also needs to wait and see the fate of the Public-Interest Litigation (PIL) which have been filed by Builders and Developers Welfare Association and Swapnil Developers in Madhya Pradesh and Mumbai respectively to challenge the retrospective application of the law on ongoing projects.

While Builders and Developers Welfare Association has filed a PIL in Madhya Pradesh High Court, Swapnil Developers has challenged provisions of RERA in the Nagpur bench of Bombay High Court. These cases are coming up for hearing in the next one week.

Project Registration - Key considerations

The Rules require the Promoter to furnish annual report including audited profit and loss account, balance sheet, cash flow statement, directors' report and the Auditors' report for the immediately preceding 3 financial years. This would also be available for public viewing. Listing of documents such as financial statements etc for public viewing may pose a significant threat to the data confidentiality aspect

A further differentiating aspect of the Karnataka Rules is that the Declaration in Form B requires the Promoter to state that he shall not discriminate against

any allottee at the time of allotment of any apartment, plot or a building, as the case may be, on any grounds unlike the other State Rules which only specify that the promoter shall not discriminate against the allottees at the time of allotment. Consequently, even cases of price discrimination, right seeking customization of units, etc could potentially get covered under this clause.

Similar to the Maharashtra Real Estate Rules, the Karnataka Rules also provide that where the receivable of the ongoing project is less than the estimated cost of balance construction, then the promoter is required to deposit 100 percent of the amounts to be realized in the separate account. Further, the Rules prescribe the following additional disclosure requirements by the Promoters of ongoing projects:

- Total amount of money collected from the allottees and the total amount of money used for development of the project including the total amount of balance money lying with the promoter; and
- Status of the project (extent of development carried out till date and the extent of development pending) including the original time period disclosed to the allottee for completion of the project at the time of sale including the delay and the time period within which he undertakes to complete the pending project, which shall be commensurate with the extent of development already completed. This certification would mean a scientific proposition leaving little room for discretion in determining

the completion period at the time of seeking registration.

Another stumbling block for the promoters of ongoing projects is the requirement to deposit in the separate bank account, 70 percent of the amounts already realized from the allottees, which have not been utilized for construction of the project or the land cost for the project, within a period of 3 months of application for registration of the project with the Authority. This retrospective application of the Rules may be difficult to comply if the funds have already been diverted to another project. Nonetheless, as a small breather to the Promoters, the Karnataka Rules provide that the promoter need not obtain approval from 2/3rd of the allottees of ongoing projects, in respect of deviation from the sanctioned plan, if implementation of the proposed plan has already been disclosed to the allottees under the agreement prior to registration.

Withdrawal of sum deposited in the separate account

In line with RERA and all other State Rules, withdrawal of sum from separate bank account is permitted only for the purpose of meeting cost of construction and land related cost. The Rules specifically define both these terms - ie land cost and cost of construction. The Karnataka Rules define "Land Cost" to mean costs incurred by the Promoter for acquisition of ownership and title of the land parcels for the real estate project as an outright purchase lease etc or the guidance value in accordance with Section 45-B of the Karnataka Stamp Act 1957 (relevant on the date of registration of the real estate project),

whichever is higher. The imputation of higher costs based on guidance value may enable higher withdrawal of funds on a going forward basis the percentage of completion method. As per the Rules, the cost of construction shall include all such costs, incurred by the promoter towards on-site as well as off-site expenditure for the development of the real estate project, including payment of taxes, fees, charges, premiums, interests etc., to any Competent Authority, or Statutory Authority of the Central or State Government, including interest, paid or payable to any Financial Institution including Scheduled Banks or Non-Banking Financial Companies etc. However, clarity is needed on few open aspects such as withdrawal from 70 percent account for marketing related expenses (which the Maharashtra authorities have clearly considered impermissible) and interest related to borrowed funds for acquiring land.

Other significant points for consideration:

Few other significant points of consideration under the Karnataka Rules are as below:

- Rate of interest payable by the promoter to the allottee or by the allottee to the promoter, as the case may be, shall be the State Bank of India highest marginal cost of

lending rate plus 2 percent.

- Any refund of monies along with the applicable interest and compensation, if any, payable by the promoter, shall be payable by the promoter to the allottee within 60 days from the date on which such refund along with applicable interest and compensation, if any, becomes due.
- RERA provides that the extension of project registration could be granted only in cases of *force majeure*. Contrary to the above, the Karnataka Rules seems to suggest possibility of getting extension otherwise too. Another conflicting aspect is that RERA provides that the extension granted shall not exceed a period of 1 year. However, the Karnataka Rules suggests that the extension of registration shall not be beyond the period specified under concerned State Acts for the completion of the project or phase thereof.
- Fine payable for compounding of offences prescribed under Rule 45 of the Karnataka Rules extends up to 10 percent of the estimated cost of real estate project.
- The format of "Agreement for sale" is absent in the Rules. Further, the format of various certificates that

are to be obtained by the Promoters as per the Rules have also not been prescribed as yet.

- Interestingly, the Karnataka Rules do not contain provisions regarding the timeline for formation of the association of allottees as required under the RERA. Under such a scenario, the provisions as given under RERA would have to be complied with.
- Insurance as required by the Act (on land title and construction) have not been notified.

CONCLUSION

The State Cabinet of Karnataka has passed the Real Estate (Regulation and Development) Rules 2017, ending weeks of uncertainty. The rules are largely seems to be on similar lines as those of Rajasthan and Gujarat. The State Government has also notified the interim regulatory and appellate authorities. Infrastructure necessary for registration is likely to be set up in the next few days, although the website has already been set up (<http://rera.karnataka.gov.in/>). The industry has been making representations to seek extension on the last due date for project registrations, which currently seems to be July 31, 2017 (ie three months from the date of commencement of the Real Estate Act).

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APPLICABILITY OF TAX ON SERVICES PROVIDED BEFORE JUNE 30, 2017

CA. Sandesh S Kutnikar



There have been hue and cry about how the transactions would be viewed legally as well as by the department which have commenced provision of service in June 2017 but the invoicing and the payment for the same are spilling over to July 2017 when the GST is expected to be effective. In this regard Study Group on GST at Bangalore has made an attempt to analyse implications of the following transactions to enable trade and practice to take necessary corrective actions well before the D-Day i.e., July 1, 2017:

Nature of service: GST consultancy services

to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.

SECTION 67A - Date of determination of rate of tax, value of taxable service and rate of exchange

(1) **The rate of service tax, value of a taxable service and rate of exchange**, if any, shall be the rate of service tax or value of a taxable service or rate of exchange, as the case may be, **in force or as applicable at the time when the taxable service has been provided or agreed to be provided.**

To mitigate this difficulty, law in Section 67A has made it clear that these three elements (rate, value, exchange rate) of service would be that in force when the taxable service has been provided or agreed to be provided. To understand when is the service provided or agreed to be provided sub-section 2 of Section 67A describes that it is "as may be prescribed". The phrase "as may be prescribed" appearing in Section 67A (2) is notified through Point of Taxation Rules, 2011 ("POTR"). So one may have to reach out to POTR to get an answer as to when the services are provided or agreed to be provided. For this purpose, Rule 2(e) of POTR defines "Point of taxation to mean the point in time when a service shall be deemed to have been provided."

Based on the above analysis, we can come to a conclusion that even though Section 66B is the charging section for the levy of service tax on any services, it is Section 67A through POTR which determines the time at which the service tax would become liable. Unless the point of taxation is determined using POTR, the services under consideration would not become taxable, since Section 66B alone cannot conclude on taxability.

Further Rule 3 of POTR defines the point of taxation generally as the earlier of the following events:

- Date of invoice, if the same is issued within 30 days of completion of service, if not, the date of completion of the service;
- Receipt of advance to the extent of such advance or receipt of payment

Sl No.	Completion of service	Invoice date	Payment date
1	Before June 30, 2017	Before June 30, 2017	Before June 30, 2017
2	Before June 30, 2017	Before June 30, 2017	After June 30, 2017
3	Before June 30, 2017	After June 30, 2017	After June 30, 2017
4	After June 30, 2017	After June 30, 2017	After June 30, 2017

Before we analyse each of the above scenarios, we have to first understand the levy or charge, as we commonly relate to in any tax law, under Chapter V of Finance Act, 1994 ("Act") (Statutory provisions for Service Tax) and also understand the levy provisions and transitional provisions under Central Goods and Services Tax Act ("CGST").

The Sections relevant for our analysis are Section 66B and Section 67A of the Act which are reproduced below:

"Section 66B - Charge of service tax on and after Finance Act, 2012

There shall be levied a tax (hereinafter referred to as the service tax) at the rate of fourteen per cent. on the value of all services, other than those services specified in the negative list, **provided or agreed**

Explanation. — For the purposes of this section, "rate of exchange" means the rate of exchange determined in accordance with such rules as may be prescribed].

(2) **The time or the point in time with respect to the rate of service tax shall be such as may be prescribed."**

Levy under Section 66B – Whether an individual force or a component of taxability:

On analysing the above two sections of the Act, we understand that the levy is on services provided or agreed to be provided. Since services are intangible in nature and the very fact that they are intangible in nature, they are not visible to a naked eye makes it even more difficult to understand and come to a conclusion as to when the service has really been provided.

So based on above analysis of various sections and POTR, we can infer that even though the service is completed on a particular date, the levy is either advanced or deferred to the date as determined based on POTR. Levy need not coincide with the completion of service. As service 'provided' is taxable as well as service 'agreed to be provided' is also taxable.

Implication of above analysis on the listed transactions under Service Tax:

Before we conclude on the impact on the above listed transactions, we must bear in mind that there are three events which are important for us to understand when is the levy complete. The three events are as under:

- a. Completion of service
- b. Date of invoice
- c. Date of receipt of payment

The above three events will determine when is the levy complete for taxation under Service Tax Law.

1. Services are provided before June 30, 2017, Invoice raised before June 30, 2017 and payment also received before June 30, 2017.

Since all the three events are concluded before June 30, 2017, the relevant service would be taxable under Service Tax.

2. Services are provided before June 30, 2017, Invoice raised before June 30, 2017 but payment received after June 30, 2017.

Since service is completed before June 30, 2017 and the invoice for same has also been raised before June 2017, payment has no role here for decided taxability under Service tax. This transaction is certainly taxable under service tax.

3. Services are provided before June 30, 2017 but Invoice raised and payment received after June 30, 2017

Two scenarios are possible:

- a. Invoice is raised within 30 days from the date of completion of service

even though it is after June 30, 2017 As per POTR in case the invoice is raised within 30 days then the point of taxation is date of invoice. Since the invoice is issued in the month of July when the Act is not in force, then strictly by going through the legal provisions service tax is not applicable on the said transaction. However, one may take a view that since the service was completed in the month of June 2017 but only the invoice was issued subsequently, service tax on the said transaction may be discharged to ignore any litigation that may crop up in future.

- b. Invoice is not raised within 30 days from the date of completion of service after June 30, 2017

As already discussed above if the invoice is not issued within 30 days from the date of completion of the service, then the point of taxation is the date of completion of service. Since the service is completed in the month of June 2017, service tax is applicable on the said transaction.

As per Rule 4A of Service Tax Rules, 1994 an invoice needs to be issued not later than 30 days from the date of completion of service. The time limit of 30 days must be construed only as an upper limit and not the actual date on which an invoice needs to be issued. Therefore, one needs to be cautious especially in case of fixed term services (renting, leasing, AMC, retainer etc.) to not wait for the completion of 30 days / going beyond 30 days for issuing an invoice. The ideal approach would be to raise invoice as on the date of completion of service than waiting for completion of time limit of 30 days or going beyond 30 days.

4. Services are provided, Invoice raised and payment also received after June 30, 2017.

Since all the 3 events are after June 30, 2017, service tax is not applicable on the said transaction.

Applicability of GST for the above list of transaction

Having understood the impact of the above list of transactions under service tax, it is important for us to understand whether there can be any overlapping transaction liable to GST as well. For this purpose we need to under the levy provisions under CGST:

“Levy - Section 9 (1)

there shall be levied a tax called the central goods and services tax on all **intra-State supplies** of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Time of Supply 13

(1) **The liability to pay tax on services shall arise at the time of supply**, as determined in accordance with the provisions of this section.

(2) The time of supply of services shall be the earliest of the following dates, namely:-

- a. the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
- b. the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
- c. the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply”



On analysis of the above two provisions of CGST, we can come to a conclusion that levy under GST, very similar to service tax provisions (as detailed in the earlier part of this document), concludes only at the time as determined under Section 13 reproduced above. So, it is safe to understand that supply alone cannot trigger levy. Supply coupled with the time of supply as detailed above would conclude the taxable event under CGST. Hence, only if supply as well as the time of supply (invoice, provision of service, receipt of payment) are under GST only then GST could be charged on such service. If only one of the event takes place under GST and the other under pre-GST or post-GST era, then it can be said that the levy is not under GST.

Before we get into analysing the impact of the above listed transactions under CGST, we need to understand the transitional provisions under CGST:

“Section 142(10) Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

Section 142(11)(b) notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994”

From the above two transitional provisions, we understand that if the supply is made under GST then taxes are to be paid under

CGST. Also that if the transaction was leviable to tax under service tax, then no tax shall be payable under CGST on the same transaction again.

To the extent of the above, the law has tried to make the tax incidence mutually exclusive. The intention of the law is also not to tax the same transaction twice under both service tax and under CGST.

1. Services are provided before June 30, 2017, Invoice raised before June 30, 2017 and payment also received before June 30, 2017.

Not taxable under GST, it is taxable under Service Tax. This is also for the reason that levy is already attracted under service tax and hence not taxable under GST as per Section 142(11) (b).

2. Services are provided before June 30, 2017, Invoice raised before June 30, 2017 but payment received after June 30, 2017.

Levy is already attracted under service tax and hence not taxable under GST as per Section 142(11) (b). Since only one of the event that is payment is under GST but the actual supply of service is under service tax it is not taxable under GST, it is taxable under Service Tax.

3. Services are provided before June 30, 2017 but Invoice raised and payment received after June 30, 2017

Two scenarios are possible:

c. Invoice is raised within 30 days from the date of completion of service even though it is after June 30, 2017
The non-obstante clause in Section

142(11)(b) indicates that one of the ingredients of time of supply under Section 13 of CGST is attracted but still GST is not payable since supply did not originate under GST. Also service is completed in service tax era and not under GST, supply has not completely taken place under GST, only tax invoice is under GST. Hence, GST is not applicable to this transaction. Also as earlier discussed that it is better to conclude this transaction as leviable to service tax and hence taxable under service tax. Section 142(11) (b) would help to not tax the same transaction again under CGST.

d. Invoice is not raised within 30 days from the date of completion of service after June 30, 2017

Levy is already attracted under service tax and hence not taxable under GST as per Section 142(11) (b). Since service is completed in service tax era, no GST can be levied under CGST as supply is not under GST.

4. Services are provided, Invoice raised and payment also received after June 30, 2017.

GST is applicable on this transaction as both supply and time of supply is under CGST.

The group has made an attempt to cover all scenarios of provision of service which are not totally concluded before June 30, 2017 and the issues which trade and profession would face going into GST and give a solution for each such instance. ■

KIND ATTENTION

Students Seeking Admission for the Weekends Advance ICITSS MCS Course

We are delighted to inform you that the **2nd batch of weekends Advance ICITSS MCS Course** will be held by Bangalore branch of SIRC of ICAI from **26th August 2017 to 14th October 2017** enabling the employed newly qualified students to apply for membership and who are not able to avail 15 days leave from their firm where they are having the articulated training.

Interested students are requested to contact **Mr. Girish** at the branch on **080 30563555** or send mail: **blrstudentevents@icai.org** for further detail please visit Bangalore branch website **www.bangaloreicai.org**

14th Karnataka State Level Two Day GST Conference



Chief Guest **Shri. Ananth Kumar**,
Union Minister of Parliamentary Affairs,
Chemical & Fertilizers, GOI



Guest of Honour
Shri. Shankar Bidari, IPS (Retd)
Former DGP, GOK



CA. Cotha S Srinivas,
Chairman, SIRC of ICAI



CA. Srinath S



Shri. H. E. Saud Al Mazrouei



CA. Naveen Rajpurohit



CA. Annapurna Kabra



Shri. Shri. Japananda Swamiji
Chairman,
Sri. Ramakrishna Sevashrama



CA. A. Jatin Christopher



Mr. Vaitheeswaran



CA. Sanjay M Dhariwal



CA. Madhukar. N. Hiregange
Central Council Member, ICAI



CA. S. Ramasubramanian



CA. V. Raghuraman



Shri. Subraya Hegde



Mr. Akella A S Prakasa Rao



One Day Seminar on RERA, Benami Act & Other Laws relating to the Real Estate Sector

Organised by **Bangalore Branch of SIRC of ICAI**

On **Saturday, 19th August, 2017**

**6 hrs
CPE**

Venue: **Pai Vista Convention Hall**, Patalamma Temple Street, Near South End Circle, Bengaluru - 560004

Time: **9.45 am to 5.30 pm**

Timings	Topics	Speakers
09.00am to 09.45am	Registration	
09.45am to 10.15am	INAUGURAL SESSION: Key note address by CA. N C S Raghavan , Bengaluru	
10.15am to 11.30am	I TECHNICAL SESSION The Prohibition of Benami Property Transactions Act 1988-An Insight	Mr. Arvind Raghavan Advocate, Bengaluru
11.30am to 11.45am	Tea Break	
11.45am to 01.15pm	II TECHNICAL SESSION Insight into RE Business - Discussion on Key Practical Aspects	CA. Vishnu Moorthi .H Bengaluru
01.15pm to 02.15pm	Lunch	
02.15pm to 03.45pm	III TECHNICAL SESSION Salient Features of RERA 2016 & Karnataka Real Estate (Regulation & Development) Rules 2017	CA. Ashok Raghavan Bengaluru
03.45pm to 04.00pm	Tea Break	
04.00pm to 05.30pm	IV TECHNICAL SESSION Impact of GST on Real Estate Transactions	CA. Venkataramani .S Bengaluru

CA. Geetha A.B.
Chairperson

CA. Bhat Shivaram Shankar
Secretary

CA. Ashok Raghavan
Programme Co-ordinator

Online Registration open

DELEGATE FEES - FOR MEMBERS: Rs.1,500/-, FOR NON-MEMBERS: Rs.5,000/- (INCLUSIVE OF TAX)

Mode of Payment: Online/Cash/Cheque/DD in favour of **Bangalore Branch of SIRC of ICAI**, payable at Bengaluru

For Registration, Please contact: **Ms. Geetanjali D.**, Tel: **080 - 3056 3513 / 3500**

Email : blrregistrations@icai.org | Website : www.bangaloreicai.org

Annual General Meeting



GST Helpdesk e-Sahayata



Speakers at Study Circle Meetings



CA. Sailesh K



CA. Saraswathi Kasturi Rangan



CA. Amaranath Ambati



CA. Pannaraj



CA. Ashok Rao



CA N. R. Badrinath

One Day Seminar on GST

Samvarthaka

- Be a GST Compliant Assessee

Organised by **Bangalore Branch of SIRC of ICAI**

On **Saturday, 9th September 2017**

Venue: **Jnana Jyothi Auditorium**, Central College Campus, Palace Road, Bangalore-1

Time: **9.45 am to 5.30 pm**



Timings	Topics	Speakers
09.00 am to 09.45 am	Registration	
09.45 am to 10.45 am	INAUGURAL SESSION Chief Guest: Smt. Nirmala Sitharaman *Union Minister for Commerce and Industry, Govt. of India	
10.45 am to 11.00 am	Tea Break	
11.00 am to 12.30 pm	I TECHNICAL SESSION Corporate Approach for GST Management	CA. Krupa Venkatesh Director - India Tax, Amazon
12.30 pm to 01.30 pm	II TECHNICAL SESSION How to Manage Input Credits	CA. N R Badrinath Bangalore
01.30 pm to 02.30 pm	Lunch break	
02.30 pm to 03.45 pm	III TECHNICAL SESSION Streamline of procedural compliances under GST Law	CA. D. Annapurna Kabra Bangalore
03.45 pm to 04.00 pm	Tea Break	
04.00 pm to 05.30 pm	Session continues	

* (Confirmation Awaited)

CA. Geetha A.B.
Chairperson

CA. Bhat Shivaram Shankar
Secretary

Online Registration open

DELEGATE FEES FOR MEMBERS: Rs.1000/-, FOR NON-MEMBERS: Rs.3000/- (INCLUSIVE OF TAX)

Mode of Payment: Online/Cash/Cheque/DD in favour of **Bangalore Branch of SIRC of ICAI**, payable at Bengaluru

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Career Counselling Programme



Congratulations



Congratulations to CA. Raghavendra T.N., President & Executive Committee Members of KSCAA for the term of 2017-18.

One Day Seminar on ICDS & Tax Audit

Organised by **Bangalore Branch of SIRC of
The Institute of Chartered Accountants of India**

On **Saturday, 1st September, 2017**

Venue: **Devraj Urs Auditorium, Bangalore - 560 052
(Opposite to Bangalore Branch of SIRC of ICAI)**

Time: **10.00am to 5.30 pm**



Timings	Topics	Speakers
09.00am to 10.00am	Registration	
10.00 am to 10.15am	INAUGURAL SESSION Chief Guest: Smt. Nutan Wodeyar* , IRS, Principal Chief Commissioner of Income Tax	
10.15 am to 11.45am	I - TECHNICAL SESSION Impact on Income Computation on account of ICDS using templates for each of the 10 Notified ICDS. Considering the FAQs issued by CBDT and the Technical Guide on ICDS by ICAI	CA. K. Gururaj Acharya Bangalore
11.45am to 12.00pm	Tea Break	
12.00pm to 01.30pm	Session continues	CA. K. Gururaj Acharya Bangalore
01.30pm to 02.30pm	LUNCH	
02.30pm to 03.45pm	II - TECHNICAL SESSION Compliance with Disclosure requirement in Tax Audit Report on account of ICDS using templates for each of the 10 Notified ICDS.	CA. K. Gururaj Acharya Bangalore & CA. Manohar Gupta Bangalore
03.45pm to 04.00pm	Tea Break	
04.00pm to 05.30pm	Overview of Tax Audit Provisions incl. the changes in certain clauses of Tax Audit Report for the AY 2017-18, Audit Quality, Documentation in light of ICDS, obtaining and relying on management representation.	CA. Manohar Gupta Bangalore

* (Confirmation Awaited)

CA. Geetha A.B.
Chairperson

CA. Bhat Shivaram Shankar
Secretary

CA. K. Gururaj Acharya
Co-ordinator

Online Registration open

**DELEGATE FEES FOR MEMBERS: Rs.1000/-
NON-MEMBERS: Rs.3000/- (INCLUSIVE OF TAX)**

Mode of Payment: Online/Cash/Cheque/DD in favour of
Bangalore Branch of SIRC of ICAI, payable at Bengaluru

For Registration, Please contact:

Ms. Geetanjali D., Tel: **080 - 3056 3513 / 3500**

Email : blrregistrations@icai.org | Website : www.bangaloreicai.org

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Tel : 080 - 3056 3500, Fax : 080 - 3056 3542, www.bangaloreicai.org e-mail : bangalore@icai.org

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