



*Bangalore Branch of
SIRC of ICAI*



SICASA e-Newsletter

MARCH-2017



Wish you all a Happy Ugadi



BANK AUDIT SEMINAR



CHAIRPERSON'S MESSAGE



My Dear Students,

It gives me a great joy to communicate to you as the Chairperson of Bangalore Branch of SIRC of the ICAI.

I recollect my student days and I can very well imagine the stress mounted months before and after the examinations. In our student days, we were not having coaching classes or the availability of Institute Publications as and when we need. But at present students are fortunate to have all the facilities to learn especially, because of the advancement in Information Technology. I sincerely advise the students to make use of the facilities given by ICAI and the Branch and get benefited. On behalf of Bangalore Branch, I wish you all the very best for the forthcoming examinations. **“Keep your head and heart in the right direction and you will never have to worry about your goals”.**

I am very happy to note that Chairman, SICASA, has introduced **“Training Programme on Oral Communication”** to improve the communication skills of the students on every Sunday between **8 am to 10 am**, at the Branch Premises. The students are requested to join this Training programme and derive maximum benefit out of the same.

On behalf of Bangalore Branch, I take this opportunity to appreciate **CA. B.T. Shetty , Chairman, SICASA** and **student leaders** for their initiatives to conduct varied programmes on Professional interest for the benefit of CA students fraternity.

Wishing you all a Happy Ugadi

CA. Geetha A.B.
Chairperson

SICASA CHAIRMAN'S MESSAGE



My Dear Students,

Hearty Greetings!

We have started the SICASA Year 2017-18 with a launching of SICASA e-newsletter and half a day seminar on Union Budget Highlights on 28th February 2017. The seminar was inaugurated and motivational lectures given by CA Cotha S. Srinivas, our newly elected SIRC Chairman as Chief Guest and renowned Chartered Accountant, past Chairman of Bangalore Branch of SIRC of ICAI and Past SIRC Member, CA Vinay Mruthyunjaya as Guest of Honour. The response from the students was overwhelming, it was a grand success.

Our next important program was “How to face CA Exam” a full day interactive seminar was handled by renowned faculties, CA. Madhukar N Hiregange, our Central Council Member, Chairman of IDTC of ICAI, CA Vijaya Raja, CA Sampath Kumar, CA Jatin Christopher and CA Babu Jayendran. It was a well appreciated program. The program was webcasted and uploaded in the website www.bangaloreicai.org. In a week time the views were more than three thousand.

Successfully completed other important work related program was, a full Seminar on Bank Branch Audit on 18th March 2017, It was inaugurated and motivational lecture delivered by our Senior Chartered Accountant, Past Central Council Member CA N Nithyananda. This program was well received by students and it was houseful well in advance. The program was webcasted and uploaded in the website www.bangaloreicai.org.

As I mentioned in the previous newsletter SICASA Bangalore has started a unique program to develop students oral communication and leadership skills. The name of the program is “SICASA SPEAKERS FORUM”. Which is meeting every Sunday morning 8AM to 10AM at our Bangalore Branch of SIRC of ICAI, Race Course Road Premises, Bangalore.

In every program of SICASA, we are encouraging students speakers, In our first program Mr Muhammad Ajsal, a student spoke on Technical topic “GST-Matching Concept”. It was well appreciated by all. Looking forward more students to come forward and make use of such opportunities to present their public speaking and presentation skills.

SICASA is of the student, by the student and for the student and I am looking for more and more students participation in all the activities and make it a vibrant SICASA of ICAI. Immediately after May CA examination, we are planning to form a new office bearers for SICASA 17-18. Looking forward a good number of students active participation in the upcoming SICASA activities.

Bangalore Branch of SICRC of ICAI is conducting pre-examination crash course on various subjects and mock tests on all the subjects, I hereby encourage students to attend crash course and take part in mock test, which enhances your confidence to face the examination.

Ugadi marks new beginning, new start, May this UGADI give you all the courage and hope you need to become a better person and be the one you would like to be! **“Happy Ugadi”**

Wish you all the very best

CA B T Shetty
Chairman, SICASA Bengaluru



MESSAGE

Dear Budding CAs'

Greetings!!!

Hope you all feeling the heat externally (atmosphere) as well as in office for yearend filings and other compliance. We are in the period of learning where there is no dearth of material for such learning, only thing we have to open our eyes, ears and need to have open mind to learn in a positive manner, we should be receptive to all good learning on our way. Why I am saying this even thou we are abundant of material for learning, which is essential for our growth in the field we have chosen, but the question is how many of us in that positive receptive mode? We need to question ourselves, we will try to learn which gives temporary pleasure and not relevant to our chosen fields. My appeal to the students those who are undergoing your articleship or those who are already completed your articles and working on assignment or those who already started your career in industry or practice, be receptive, try to learn new things whatever the work assigned to you or it is in your kitty to do, so that it will help you in long run, don't try shortcuts to complete the work assigned to you, always you should be asking **what, why, when** and **how**, this questions leads you to learning curve which is very much essential for the profession you have chosen and it will make you a successful professional too.

Hope you all take it in a positive manner and switch on to receptive mode for all good learning.

Now onwards I will recommend one book a month, you should buy/ borrow and read those books, it will help you in overall development. Those who have already read, please refer to your friends those who are not read. **Book Name: Call to the nation by Swami Vivekananda**. Happy reading

Wish you all HAPPY and prosperous **YUGADI/Gudi Padwa/Thapna/Cheti Chand** a Hindu new year

CA Srinivasa.T

MC Member

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PREFACE

The E-newsletter of SICASA, Bangalore is one of the means to keep ourselves abreast about the recent developments especially in the context of our nation where regular amendments are made to the provisions of the laws through the issue of regular notifications, circulars and/or directives. Even otherwise, the challenge of attaining the vast depth of knowledge expected to be there with each Chartered Accountant, by various stakeholders, if taken up individually is very tiresome and cumbersome task.

As such, SICASA, Bangalore has come up with this Monthly E-Newsletters for CA Students, which will act as a platform for information sharing and disseminating knowledge. We also have plans to include various other categories in the upcoming issues, which would include, inter alia, quizzes and/or brainteasers, motivational or inspiring stories as well as latest legal updates on various fronts. In this regard, we require strong support from CA Students community in terms of contributing materials to the newsletter as well as providing regular honest feedback on the newsletter.

We believe that, with your active participation, we will be able to regularly publish the newsletter on timely basis. Hope this newsletter will be useful to you all. Let us make this initiative a grand success and a continuing one.



The views expressed in this newsletter are of the respective authors and neither the Bangalore Branch of Institute of Chartered Accountants (ICAI) nor SICASA, Bangalore endorse such views. Though maximum effort is put to ensure correct and up-to-date information is published through the newsletter the SISCASA committee cannot guarantee the correctness or the authenticity of the articles submitted by CA Students.

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Audit Sampling

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SRO0513932

We being the auditors we are all well versed with audit of different sectors. We generally do 100% vouching in a small organization but it is not practically possible to do the same when volume is very high, there we will use the technique of Audit sampling. I will try to explain about this in a simple and understandable manner.

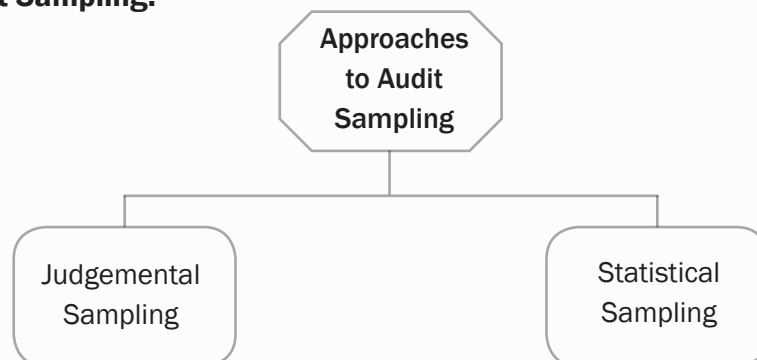
Auditors usually don't examine the books completely i.e. 100%. It may be due to following reasons –

- (i) Usually auditors might not find time for detailed examination.
- (ii) Number of transactions is high.
- (iii) Mostly items in the population are identical.
- (iv) If on the basis of compliance procedures, it is concluded that internal control system is very effective, there is no need for detailed 100% examination.

Meaning of Audit Sampling:

Audit sampling is the application of an audit procedure to less than 100 percent of the items within a class of transactions or an account balance for the purpose of evaluating characteristics of the same.

Approaches to Audit Sampling:



Judgmental Sampling/ Non – Statistical Sampling:

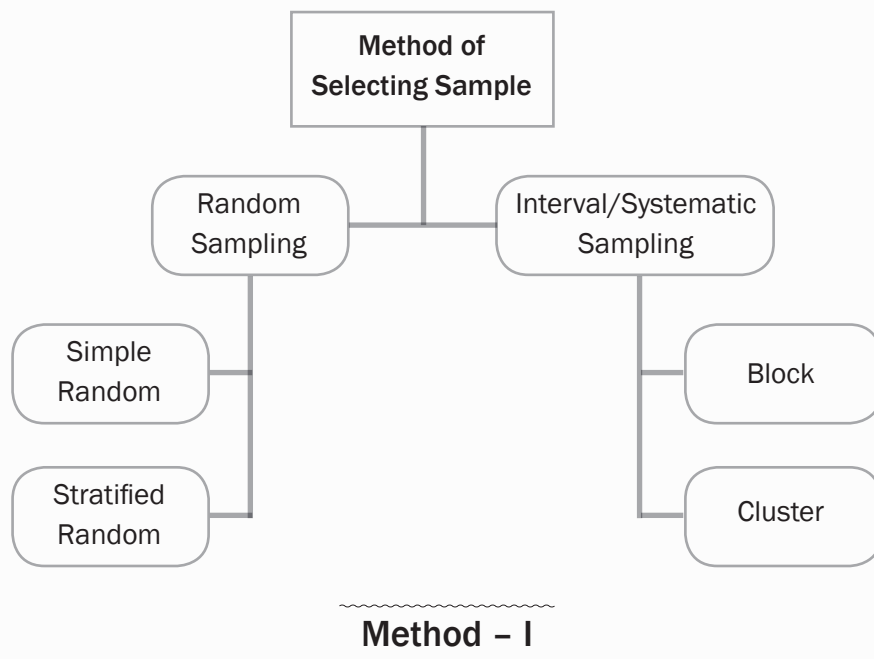
- (i) Under this method Sample size and its composition are decided on the basis of auditor's experience.
- (ii) This is traditional method of sampling.
- (iii) E.g. The auditor may decide to check entries in April, December and March in a certain year and other months in next year.

Statistical Sampling:

- (i) Under this method Sample Size is chosen by applying certain mathematical and statistical devices.
- (ii) It is generally based on probability theory.
- (iii) E.g. Selection of debtors using random number table or using a computer.

Method of Selecting Sample:

- (i) Method should be such that the sample can be expected to be true representative of the population.
- (ii) Therefore it is necessary that each item in the population have equal chance of being chosen.
- (iii) There are basically two methods by which sample can be selected



Random Sampling:

All items have equal chances of selection. It involves use of random number table. It can be of two types, namely

- (a) Simple Random Sampling
- (b) Stratified Random Sampling

Simple Random Sampling:

- (i) Each item of population has an equal chance of selection
- (ii) It can be chosen by
 - (a) Use of Random number table.
 - (b) Help of computer.
 - (c) Picking up number in random way.

- (iii) Suitable for homogenous population i.e. population having similar items.
- (iv) E.g. Selection of 10 accounts out of 30 accounts from the population of Sundry Creditors using Random number table.

Stratified Random Sampling:

- (i) Stratification means dividing a heterogeneous population into more homogeneous sub populations.
- (ii) Sample is taken from each sub population (stratum)
- (iii) It is useful for diversified population.
- (iv) E.g. Debtors ranging from Rs. 500 to Rs. 5,00,000, where it can be divided into stratum as following.
 - (a) Group A – Up to Rs. 10,000/-
 - (b) Group B – Rs. 10,001/- to Rs. 1,00,000/-
 - (c) Group C – Rs. 1,00,001/- to Rs.2,50,000/-
 - (d) Group D – Rs. 2,50,001/- to Rs. 5,00,000/-
- (v) Random Sample will be chosen from each stratum.
- (vi) Its results are more appropriate in case of population having different characteristics. It is simply an extension of simple random sampling.

~~~~~ **Method – II** ~~~~~

Interval or Systematic Sampling:

Sample size is chosen in such a way that there is constant interval between selections. The first interval has a random start.

Interval may be based on

- (i) Certain Number (E.g. every 6th sales invoice)
- (ii) Monetary total (e.g. every increase of Rs. 10,000/- in cumulative wage summary)

Interval sampling is used when population does not correspond to a particular trend.

It can be of two types – (a) Block (b) Cluster

Block Sampling:

This method of sampling involves selecting a block (or blocks) of sequential items from within a population. Block selection is rarely used in modern auditing merely because valid references

cannot be made beyond the period or block examined. In situations when the auditor uses block selection as a sampling technique, many blocks should be selected to help minimize sampling risk.

E.g.

- i) The Auditor may examine the books from June to August for the entire year.
- ii) The auditor may only examine invoices that are numbered 30 to 40 out of 50 invoices.

Cluster Sampling:

Under this method the whole population is divided into groups called clusters. A number of clusters are selected on random basis.

E.g. 1,000 sales invoices are divided into 10 clusters of 100 each, then 1st, 3rd and 6th clusters are chosen.

Interval or Systematic sampling is less effective than random sampling since each item is not randomly chosen and the sample chosen at times maybe biased.

Factors affecting size of sample:

- (i) Tolerable Error
- (ii) Expected Error
- (iii) Sampling Risk

Tolerable Error:

It is the maximum level of misstatement/ omission made by the management that is accepted by the auditor for the given sample size.

Expected Error:

It is the error expected by the auditor. If the auditor expects possibility of error in population, larger sample size is required. If population is expected to be free of misstatements, smaller sample size is needed.

Sampling Risk:

Sampling risk represents the possibility that an auditor's conclusion based on a sample is different from that reached if the entire population were subject to audit procedure. The auditor may conclude that material misstatements exist, when in fact they do not; or material misstatements do not exist but in fact they do exist. Auditors can lower the sampling risk by increasing the sampling size.

Hence, the auditor must consider the above mentioned risks and errors while selecting sample for the purpose of audit.

When not to sample:

It is also important to note that there are many audit procedures wherein sampling doesn't work out i.e. 100% examination is to be done in following cases –

- (i) Observing accounting procedures
- (ii) Discussing methods of accounting and reporting
- (iii) Comparing records, reports and other information
- (iv) Re-computing or estimating amounts.
- (v) Reviewing trends in reporting.
- (vi) Comparing similar businesses.
- (vii) Reviewing of all fixed assets purchased and sold.
- (viii) Examining contracts and agreements, where they are in small numbers.

Definition

Population: The entire set of data from which a sample is selected and about which the auditor wishes to draw conclusions.



***ICDS and Accounting Standards –
A Comparative Study***
(ICDS III and IV)

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**NISHA KOTHARI**  
SRO0366292  
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Introduction

The Ministry of Finance has issued ten Income Computation and Disclosure Standards (ICDS), operationalizing a new framework for computation of taxable income by all assesseees in relation to their income under the heads ‘Profit and gains of business or profession’ and ‘Income from other sources’. The Central Board of Direct Taxes (CBDT) notified these standards under Section 145(2) of the Income tax Act, 1961 (the Act) vide ‘Notification No. 33/2015 [F. No. 134/48/2010-TPL] / SO 892(E) dated 31st March 2015’. This notification shall come into force with effect from 1st day of April, 2015, and shall accordingly apply to the assessment year 2016-17 and subsequent assessment years.

Objective of ICDS

ICDS were developed with a view to minimizing tax related disputes by bringing greater consistency in the application of accounting principles governing the computation of income.

Applicability

All the notified ICDSs are applicable to taxpayers following the mercantile system of accounting for computing income chargeable to income tax under the heads “Profits and Gains of Business or Profession” or “Income from Other Sources”.

ICDSs are to be followed only for the purposes of computation of income and not for the purpose of maintenance of books of accounts.

In case of conflict between the provisions of the Income Tax Act, 1961 and the notified ICDSs, the provisions of the Act shall prevail to that extent.

Non Compliance of ICDS

Non compliance of ICDS will result in best judgment assessment being carried out by tax authorities, which may lead to protracted litigations.

List of ICDS

No.	Income Computation and Disclosure Standards	Corresponding Accounting Standards
ICDS I	Accounting Policies	AS-1
ICDS II	Valuation of Inventories	AS-2
ICDS III	Construction Contracts	AS-7
ICDS IV	Revenue Recognition	AS-9
ICDS V	Tangible Fixed Assets	AS-10
ICDS VI	The Effect of Changes in Foreign Exchange Rates	AS-11
ICDS VII	Government Grants	AS-12
ICDS VIII	Securities	AS-13
ICDS IX	Borrowing Cost	AS-16
ICDS X	Provisions, Contingent Liabilities and Contingent Assets	AS-29

The current laws are highly volatile and having regard to the same, it is imperative to gain a proper understanding of the reasoning behind these material changes so as to properly appreciate the shifts in the legal structure. Hence, while it is important to gain an understanding of the current legal provisions, it is equally important to be aware/ informed of the erstwhile provisions. It is only then, that we would be able to understand the reasoning behind the changes and how to cope with the same as an assessee during the transitional phase.

As the very name suggests, ICDS is to be followed for the purpose of income computation. Enumerated under are some of the changes which need to be incorporated while computing income as per the notified ICDS III and ICDS IV dealing with construction contracts and revenue recognition, respectively. This primarily highlights the differences in the treatment prescribed under ICDS III and the corresponding AS-7 and ICDS IV and the corresponding AS -9 with an objective of emphasizing on the effect of ICDS and its overall impact on income computation and tax liability.

Differences between ICDS and AS

1. As per AS – 7, during the early stages of a contract where the outcome of the contract cannot be reliably estimated revenue is to be recognized to the extent of costs incurred. No profit is recognized.

ICDS III states that: Where the percentage of completion w.r.t any contract is less than 25%, revenue is to be recognized to the extent of the cost incurred; and

Where the percentage of completion of a contract exceeds 25%, revenue is to be recognized on percentage completion method.

2. AS – 7 is silent about treatment of accrual of income in respect of the retention money. ICDS III specifically provides that the retention money shall accrue to the person for computing revenue based on the percentage of completion method.
3. AS -7 provides for reversal of revenue on account of uncertainty arising on realization of contract revenue which was already recognized as income. ICDS provides that before reversal of revenue the sum shall be written off in the books of account in line with the provisions of Section 36(1)(vii) of the Income Tax Act, 1961 relating to bad debts.
4. As per AS – 7, when it is probable that total contract cost will exceed total contract revenue, the expected loss should be recognized immediately. Expected loss should be recognized to the extent of the work completed.

As per ICDS III, an expected loss on the construction contract should be recognized immediately only if it has been actually incurred.

5. If incentive payments and claims are reliably measurable and it is probable that it will result in revenue then the same must be recognized as contract revenue as per ICDS III unlike in case of AS-7 where acceptance by the customer is to be established.
6. AS -7 is silent about the treatment of preconstruction income. It has been provided in the ICDS that preconstruction income in the nature of interest, dividend and capital gains shall be offered to tax and not reduced from the cost of construction.
7. Ind AS 115 addresses the issue of consideration promised in kind. If a customer promises consideration in a form other than cash, the non-cash consideration is measured at a fair value; however, if the fair value cannot be estimated, then the non cash consideration is measured with reference to the stand-alone selling price of the goods or services as the case may be. There is no guidance note for the same under AS or ICDS.
8. AS – 9 recognizes both the “Percentage Completion Method” and “Completed Service Contract Method” for recognition of revenue from service transactions. ICDS IV provides that revenue from service transactions shall only be recognized by following the “Percentage Completion Method”.

9. AS – 9 provides for postponement of recognition of revenue in relation to any claim, where the ability to assess the ultimate collection with reasonable certainty is lacking. As per ICDS IV, the postponement of recognition of revenue due to uncertainty is restricted to claims for price escalation and export incentives, only.

Transitional Provisions

Construction contracts which commenced on or before the 31st day of March, 2015 but not completed by the said date, shall be recognized as revenue and costs respectively in accordance with the provisions of this standard.

The transitional provisions of Income Computation and Disclosure Standard on construction contract shall mutatis mutandis apply to the recognition of revenue and the associated costs for a service transaction undertaken on or before the 31st day of March, 2015. but not completed by the said date.



PRESUMPTIVE TAXATION FOR PROFESSIONALS

PRIYANKA
SRO0210911

Section 44AD of Income Tax Act, 1961 provides for presumptive taxation scheme for eligible persons engaged in eligible business. However such scheme is not available for professionals. Hence, for reducing the compliance burden, the Finance Act, 2016 has inserted the section 44ADA being a special provision for computing profits and gains of profession on presumptive basis.

Objective

To provide relief to small taxpayers engaged in specified profession.

The following 3 conditions are to be satisfied for availing the benefit of Section 44ADA:

1. Eligible Assessee: Assessee resident in India as per Income Tax Act

2. Eligible Professionals: Person resident in India carrying on any of the following profession (“specified profession”):

- Legal
 - Medical
 - Engineering or architectural
 - Accountancy
 - Technical consultancy
 - Interior decoration
 - Other notified professionals
- (a) Authorized Representatives (b) Film Artists
- (c) Company Secretaries and (d) Information Technology

3. Gross Receipt Limit: Total gross receipts from profession do not exceed fifty lakh rupees in the previous year.

Computation of income:

Once the person opts for the presumptive taxation under section 44ADA, income would be computed based on presumptive basis i.e., at 50% of the total gross receipt of the profession. However, he can voluntarily declare a higher income.

Deductions from the income computed above –

Any deduction allowable under the provisions of sections 30 to 38 shall be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

Separate deduction on account of depreciation is also not available as is provided under section 32. The written down value of any asset used for the purposes of profession shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

Moreover, it will be assumed that disallowance, if any, under section 40, 40A & 43B has been considered while calculating estimated income @ 50%.

What if the assessee claims the lower income than the deemed gains as stated above?

Following consequences are to be complied by the assessee if in addition to the lower declaration, the income exceeds maximum amount not chargeable to tax:

- (a) Prepare and maintain such books of account and other documents as required under section 44AA &
- (b) Get the books audited and furnish a report of such audit as required under section 44AB

Advantages - Person opting to scheme:

- (a) Can declare the income at prescribed rate [no question of disallowance] and
- (b) No need to maintenance of books of accounts under section 44AA and getting the same audited under section 44AB.

Effective Date:

The new section is proposed to be effective from Financial Year 01.04.2016.

Other Points:

- (a) A person opting for the presumptive taxation scheme under sections 44ADA is also liable to pay advance tax.

Illustrations

1. A doctor incurs loss in the initial year of practice, but earns income from sources other than profession (such as capital gains & salary) & has income in excess of maximum amount not chargeable to tax. Does the assessee have to maintain & get his books audited?

Answer: Yes, though the assessee has incurred losses from profession, there were income from sources other than profession that were in excess of maximum amount not chargeable to tax i.e Rs 2.5L, hence the assessee will be obligated to maintain the books of account & get it audited. _

2. A CA in practice earns gross receipts in excess of Rs 50 L but has income of Rs 2L during the year. Is the CA eligible for availing presumptive taxation benefit?

Answer: No, the gross receipts from profession are in excess of Rs 50L, hence the provisions of presumptive taxation shall not apply to the assessee.

3. An interior decorator by profession also had a rice mill business. The gross receipts from the mill business were Rs 15L & the receipts from interior designing profession was Rs 40L. Is the decorator an eligible assessee?

Answer: Yes, because the gross receipt from profession has not exceeded Rs 50L, hence the assessee is an eligible assessee.

4. The assessee had made cash payments of Rs 25,000/- to a single party in a day. The assessee had opted for presumptive taxation for the year under consideration. Is the expense liable for disallowance?

Answer: Though under the normal provisions, the expense is liable for disallowance, provisions of section 44ADA mandate that the provision of section 40A(3) are deemed to have been affected, hence the disallowance shall not be made.

5. Does the relevant provision apply to Company carrying the eligible profession?

Answer: Yes, unlike section 44AD, the provision of section 44ADA doesn't restrict the eligibility to only resident- individuals, HUF or partnership firms. Hence the provisions of section 44ADA shall continue to apply to resident companies.



Input Service Distributor (ISD) under Goods and Services Tax (GST)

YAGYA GAIRE

FRO0006008

Even under the Goods and Services Tax (GST) regime, the concept of Input Service Distributor (ISD) is similar to that of existing laws. In this article, we will see through the provisions related to distribution of credit by Input Service Distributor as provided in Section 21 of the Revised Model GST Law. Even with the Goods and Service Tax (GST), the promised **One Nation One Tax** regime seems far from truth. This harsh truth is reflected in the provisions relating to set-off of Input Tax Credit of Central GST (CGST) and/or State GST (SGST) and/or Integrated GST (IGST) amongst each other as well as the manner in which each of them are allowed to be distributed as under the provisions of ISD. Certain restrictions have been imposed on utilization of one credit against the liability of another (For example: CGST input with SGST output) and/or distribution of one credit as another credit. For an instance distribution of SGST credit as IGST credit is not allowed when distributor and recipient are in same state. Anyway, let's head on ahead and try to understand these complex provisions in a simple and easy manner.

Input Service Distributor (ISD) is defined in Section 2(54) of the Model GST Law, which is reproduced below:

“Input Service Distributor” means an office of the supplier of goods and/ or services which receives tax invoices issued under section 28 towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above;

It is to be noted that under GST Regime as well, a separate registration is to be taken as Input Service Distributor (ISD) even though the office may be registered as taxable person.

From the definition it can be observed that there must be inward supply of services along with tax invoices issued under section 28 to the Input Service Distributor and he in turn can distribute the credit to his other units who must be a supplier of taxable goods and/or services having the same Permanent Account Number (PAN) so that they can avail/utilize the credit against their output tax liability. These following points are of utmost importance:

- ◆ The tax invoice should be received by ISD toward inward supply of services. Goods have not been covered under the provisions of ISD.
- ◆ Prescribed document is to be issued.

- ◆ The unit/branch receiving the credit must be a supplier of taxable goods and/or services. If he is supplying exempted goods alone he is not eligible to receive the credit from ISD.
- ◆ The unit/branch should be registered under the same PAN as that of ISD.

Section 21 of the Model GST Law prescribes the manner in which credits of CGST (SGST in State Acts) and/or IGST can be distributed to other units/branches. In this regard distinction is made on the manner of distribution of credit when the Distributor and Recipient are in Different States and when they are in same states. The relevant manner of distributing the credit subject to certain general conditions is laid down below:

Where the Distributor and Recipient are in DIFFIRENT States

- ◆ The ISD may distribute credit of CGST as CGST or IGST
- ◆ The ISD may distribute credit of IGST as IGST or CGST
- ◆ The ISD may distribute credit of SGST as SGST or IGST

Where the Distributor and Recipient are in SAME States

- ◆ The ISD may distribute credit of CGST as CGST alone
- ◆ The ISD may distribute credit of IGST as CGST or SGST
- ◆ The ISD may distribute credit of SGST as SGST alone

The above provisions can be summarized in the table below:

Location of ISD and Recipient Unit(s)	Credits As Credits of		IGST	CGST	SGST	Remarks
	IGST	CGST	IGST	CGST	SGST	Remarks
In the Same State	IGST	NO	YES	YES	YES	IGST as CGST or SGST
	CGST	YES	NO	NO	NO	CGST as CGST alone
	SGST	NO	NO	YES	YES	SGST as SGST alone
In Different States	IGST	YES	YES	NO	NO	IGST as IGST or CGST
	CGST	YES	YES	NO	NO	CGST as IGST or CGST
	SGST	YES	NO	YES	YES	SGST as IGST or SGST

It may be noted that where credit can be distributed as either of the two alternatives, the one which is most beneficial should be opted for. For example, assuming distributor and the recipient are in same state, where one unit/business vertical has a huge CGST liability, the IGST

credit should be distributed by the ISD as CGST (and not SGST) to that particular unit/vertical, so that it will be able to set off its liability with the credit to the maximum extent possible and less amount may be paid via cash. Accordingly, if there is another unit/vertical with more SGST liability and SGST input credit of that unit is insufficient to cover the same, the IGST may be distributed, to that particular unit, as SGST.

The Law has provided certain overall conditions subject to which the distribution as referred above can be effected. These provisions are highlighted below:

- ◆ the credit of tax paid on input services attributable to a recipient of service (i.e. one particular unit among many) shall be distributed only to that recipient (unit). In other words, we are allocating the credit and not distributing the same. Wherever a direct nexus is established between the value of input services and the unit utilizing those services, the input credit on such services is to be distribution/allocated to that particular unit.
- ◆ the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed only amongst such recipient(s) to whom the input service is attributable and such distribution shall be **pro rata** on the basis of turnover in a State of such recipient,
 - during the preceding financial year if the recipients have turnover during that year or,
 - if some or all recipients do not have turnover during the preceding financial year, during the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed

to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period. The word turnover means aggregate value of turnover defined under sub-section (6) of Section 2.

- ◆ The credit attributable to all recipients shall be distributed amongst such recipients on pro rata basis of turnover in State.
- ◆ The amount of credit distributed shall not exceed amount of credit available for distribution.
- ◆ The prescribed document shall be issued to each recipient of credit and shall contain such details as may be prescribed.

Further, Section 22 provides that where ISD distributes credit in excess of what is allowed and provided under section 21, the excess may be recovered from the recipient(s) along with interest and the provisions of section 66 and 67, as the case may be, shall apply mutatis mutandis for effecting such recovery.

Unlike the existing law, the GST Model Law differs in its view when it comes to the recipient to whom the input credit can be distributed by the ISD. Under the existing laws, the credit was not restricted to any particular unit or manufacturer or service provider and the credit of services utilized by one unit was allowed to be distributed to another unit. The CESTAT, Bangalore in the case of **Ecof Industries Pvt. Ltd. v. CCE, Bangalore 2009 (10) TMI 171** adopted a holistic view and held that the availability of credit is related to manufacturer of goods or provider of output services as a whole and is not restricted to any particular unit or manufacturer or service provider. On a further appeal by the revenue, the Karnataka High Court later in 2011 concurred with the view of CESTAT, Bangalore, and the appeal was disposed in favor of the assessee.

Not upholding similar position under the GST Regime, will definitely cause undue hardship to taxpayers. The relief might be available in the due course in the form of similar judicial pronouncement(s) but of that we are unsure as of yet. We just have to wait until GST rolls out and sheds more light on various unclear issues.



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