

# eMagazine



**Articles:**

<b>Ailing Economy</b>	<b>04</b>
<b>A Brief Analysis on Insolvency Professionals</b>	<b>07</b>

**Columns:**

<b>From Chairman's Desk</b>	<b>02</b>
<b>Chapter Activities</b>	<b>03</b>
<b>Web Reading</b>	<b>06</b>
<b>Living Room</b>	<b>09</b>
<b>I &amp; E Law Café</b>	<b>10</b>
<b>Words Worth Millions</b>	<b>11</b>
<b>GST Suite</b>	<b>12</b>
<b>Brainy Bits</b>	<b>17</b>
<b>Newsroom</b>	<b>19</b>

*For Private Circulation Only*



**CS VJ Balakrishnan**

Chairman,  
Mysore Chapter

**-: Editorial Team:-**

CS Vijaya Rao

CS Sherene

CS Pracheta M

CS Phani Datta

CS Ajay Madhaih

CS Veerash

CS Madhur N Agrawal

**Join  
5600+ members'  
strong**

**"CSMysore" eParivaar**

<http://www.groups.google.com/group/csmysore>

Dear Professional Colleagues,  
Warm greetings!

I am happy to interact with you again through the monthly eMagazine. New Financial year started with a bang. Hope the current financial year will be very positive for our profession due to the initiative taken by the Government and by our Institute. During April 2017, Chapter conducted four career awareness programs and covered more than 200 students. Chapter also conducted a session on NCLT & academic training program for the Executive Completed Students. Chapter bagged the first place in students' registration for the year 2016 by achieving both the targets of Foundation & Executive. I congratulate the M C Members & Executive Officer of the Chapter for the efforts put in.

During June 2017, Chapter is planning to hold a two days seminar on GST, Bankruptcy & Insolvency code. The details of the program will follow shortly.

The CS exams are going to commence from 1st June 2017 and around 300 students are expected to attend the exams from Mysore centre. I convey my best wishes to all the students to come out successful in the exams.

Thanking you.

*Now it's easy to receive the eMagazine directly into your personal mail id.*

Click <http://goo.gl/PV90lr> and fill-in simple info.

*You may send this link to your friends too!*

*Please write your comments and feedback to us:*

[enewsletter.icsimysore@gmail.com](mailto:enewsletter.icsimysore@gmail.com)

**Disclaimer**

Views and other contents expressed or provided by the contributors are their own and the Chapter does not accept any responsibility. The Chapter is not in any way responsible for the result of any action taken on the basis of the contents published in this newsletter. All rights are reserved.

# Chapter Activities

## 1. Career Awareness Program

Chapter has conducted 04 career awareness programs during the month. The details are as follows.

S No	Date	College Name	Addressed By	No of Participants
1	15.04.2017	Mahajana PG Centre for MBA Students	CSManjunath S	60
2	22.04.2017	GSSS Institute of Management	CSManjunath S	50
3	24.04.2017	Mahajana PG Centre for M.Com Students	CSManjunath S	45
4	28.04.2017	Mahesh PU College	CSManjunath S	50

## 2. Session on NCLT



On 04.04.2017, the chapter had organized a session on National Company Law Tribunal (NCLT) at the chapter premises. Chairman CS Balakrishnan V J, welcomed the gathering. CS Venkata Ramana R, Chairman, ICSI-Hyderabad Chapter was the speaker for the session.

The Speaker shared with the participants about the new developments and opportunities for Company Secretaries in NCLT and informed the participants to be prepared for grabbing the opportunity, as in future it can belong to the profession of CS. He also explained about the role of NCLT which is majorly formulated for easy and speedy disposal of Liquidation cases. The roles of CLB, SICA, BIFR, etc, have been consolidated and brought under a single platform that is the NCLT which would be regulated by private liquidators and members comprising of professional groups of CA, CS or any person having relevant experience and knowledge. CS Manjunath S, Secretary of the Chapter proposed the vote of thanks.

## 3. Academic Training Program For Professional Students



Chapter conducted the academic training program for the executive passed students during April 2017 at the chapter premises. The two days induction program held on 17<sup>th</sup> & 18<sup>th</sup> of April 2017. The three days eGovernance program held from 19<sup>th</sup> to 21<sup>st</sup> April 2017. The five days Skill Development Program held from 25<sup>th</sup> to 29<sup>th</sup> April, 2017. Various faculties from Mysore handled the sessions.



## Ailing Economy

### **What is ailing our Economy?**

When we ponder over the state of economy in India, it is imperative to dwell on the following aspects that skip our policy makers mind time and again. While demonetisation is touted as medicine to all ills, it is surprising to note that no fresh ideas have come up to stop creation of black money. Any work half-done doesn't add to the credibility of our law makers

Again, when we think of our economy, all likeminded people question the policy of not taxing agriculture. We know that agriculture is a State subject and there is a need for constitutional amendment for taxing agricultural income for income-tax purposes. There are about 25 Crore tax paying households in India of which 15 Crore are designated as agriculturalists and the remaining 10 Crore are non-agriculturalists according to the estimates produced by the Minister of State for Finance. More than 4 lakh tax payers have claimed exemption from Agricultural income in Assessment Year 2014-15. It is surprising to note that even big Corporates with huge agricultural income are not taxed.

### **Agriculture Income:**

Income from Agriculture is exempt at present. This is an important loophole which needs to be plugged if we need to curb black money. Now this provision is being misused by rich people while the intended intention is to spare the agriculturist since there is no certainty of consistent profits from Agriculture. This is used by rich and the corrupt to convert black money into white. Huge Agriculture receipts are shown which in fact has been got from corrupt and other illegal means – that too without the need to pay any Income-tax on this.

This menace can be plugged by having suitable provisions on the following lines:

- ◆ All agricultural lands of certain area (say up to 10 acre) will come under a registry showing clearly the details of the owner to be maintained by a Government agency. This is primarily to weed out rich farmers from this scheme.
- ◆ Experts will determine, after proper soil testing etc., on the agricultural produce that is best suited to each of the land.
- ◆ Then an Insurance policy is issued for 90% of the value of the produce to be grown in those lands, at nominal price.
- ◆ Once the produce is ready, the agriculturist has the option either to give it to the Government agency at the pre-determined price of 90% or sell in market for whatever price it fetches in market.
- ◆ The payment to the agriculturists can be done using Direct Bank Transfer (DBT).
- ◆ The present MGNREGA can be scrapped and instead this new scheme can be introduced.
- ◆ Even if the crop fails this 90% value as per insurance policy will be given to the farmer.

This will help to free farmers from debt traps and uncertain future. Further, there will not be any argument to exempt agricultural income. This can be straightaway brought into taxation net. Besides all this, it is the most important action to plug the major flaw in the system that is being misused by most of the corrupt people to convert black money into white and without payment of any tax on the same. The discontinuance of MGNREGA will also help to divert people to work in farms thus providing employment to more and more rural population.

### **Insurance cover for those tax payers who become victims of pink slip:**

This is happening in many families of late. As we all know, IT and ITES provides major employment opportunities and by plan or due to some uncertainty, many companies send out people in droves when the going gets tough. Particularly, those serving in middle and senior management get affected by this move and it is almost impossible for them to get alternate jobs within 6 to 12 months.

This social malice can be addressed by the following action:

- ◆ The Income-tax department while collecting tax, need to allocate certain percentage to take out an Insurance Policy. Such fixed amount can be included as Surcharge or cess etc.
- ◆ This allocated money must be used to buy out an Insurance Policy for all tax payers.
- ◆ This policy will have features to provide for extending some percentage of his last drawn salary for a period of 6 to 12 months to help manage the difficult period till he gets another employment. There can also be some amount payable in case the person dies while in service.
- ◆ This can be extended to all assesses who pay tax continuously for certain years.

### **Political funding:**

It makes no sense to allow cash payments irrespective of the limit – whether Rs. 2,000 or Rs. 20,000. It only makes the job little difficult for political parties. Instead of say 1,000 names to show a receipt of Rs. 2 Cr. now they may have to show 10,000 names. Some parties may not even give names and claim to have collected it in a public gathering

- ◆ It is important to fully ban cash payment to political parties.
- ◆ Whoever wants to pay they can do so using any electronic mode or Apps like PAYTM etc.
- ◆ This will make it almost impossible for any party to show wrong entries and ill-gotten wealth into declared source.

### **Legal Reforms:**

Legal Reforms are paramount and the present system is simply a travesty of justice. Decisions have to be given— right or wrong, to move forward. In the present system even criminal complaints take decades and any decision if not delivered within a reasonable time, is not going to serve or help anyone, leave alone the intended purpose.

Even consumer cases are pending for more than 5 years.

Cases are pending in Supreme Court for long period like the PF case which is affecting most of salaried class people. There is no accountability in legal system. There is no time bound action.

Government spending on such system that is not delivering is not good for the growth of the Country.

### **Conclusion:**

To conclude it is suffice to say that there is no short cut to economic growth. It is imperative to take hard decisions and political will to do the same. We have been witnessing that even big economies are faltering due to populist decisions that create imbalance in medium to long term. We can mention France and other European Countries as examples in recent past.

Strong economy is the need now more than the past since the international trade is expected to slow down due to various entry barriers being artificially created by many Countries. With right decisions and support we can easily see double digit GDP growth and a Country like ours which is rich in resources has no reasons to stagnate

## **Web Yatra**

Punith Ravindra M.Com  
CS Professional  
Apprentice Trainee  
D Venkteswaralu PCS  
Koramangala Bangalore



## **commerce duniya**

[www.commerceduniya.com](http://www.commerceduniya.com)

Today information flows like water in the internet, but it is useful only when a right person utilizes it in a right manner. One of such site which offers abundant information is [www.commerceduniya.com](http://www.commerceduniya.com)

This site offers various articles on varied subjects of commerce. It also provides details about new updates that are useful to professionals as well as students of commerce. It has various forums like MCA, RBI, SEBI, Market Watch, Students etc...where we get articles and updates on the respective subjects.

Apart from this, students of commerce can make ultimate use of this site as it provides examination papers of various courses like CA, CS, UGC-NET etc. There also an opportunity portal on the website, which provides information about job vacancies, CA and CS Training vacancies, Summer Trainings etc...You can even brush up your knowledge by taking small quizzes available on the site.

In short, the site is a complete package of information and useful knowledge for every commerce student and professional.



# A Brief Analysis on Insolvency Professionals

## **Background:**

The Insolvency and Bankruptcy Code, 2016 (Code) is considered as the biggest economic reform next only to GST. It offers a market determined, time-bound mechanism for orderly resolution of insolvency, wherever possible, and orderly exit, whenever required. It envisages an ecosystem comprising National Company Law Appellate Tribunal (NCLAT), National Company Law Tribunal (NCLT), Debt Recovery Appellate Tribunal (DRAT), Debt Recovery Tribunal (DRT), Insolvency and Bankruptcy Board of India (Board), Information Utilities (IUs), Insolvency Professionals (IPs), Insolvency Professional Agencies (IPAs) and Insolvency Professional Entities (IPEs) for implementation of the Code relating to corporate insolvency resolution and liquidation.

## **Introduction:**

Insolvency Professional is appointed to conduct insolvency resolution process in accordance with the procedure laid down in the Code. He is a professional endowed with specialized knowledge, training and recognized by Insolvency Professional Agency and Insolvency and Bankruptcy Board of India for undertaking insolvency proceedings. The IPs are registered and are regulated by the Board. They have a critical role in transactions under the Code.

The insolvency process under the Code starts with a financial creditor, operational creditor or corporate applicant as the case may be who makes an application to the Adjudicating Authority (AA) about the debt default by the Corporate together with the name of IP who has consented to act as an interim IP. If no reference is made to the Board about the name of IP, AA makes reference to the Board. A financial creditor is a person to whom a financial debt is owed including any assignee thereof arising out of financial debt together with interest which is disbursed against consideration for the value of money borrowed etc. Operational debtor refers to an operational debt in respect of provision of goods and services including employment, repayment of dues to the Govt. authorities or any local authority.

## **Duties and functions of Insolvency Professionals:**

The period of insolvency process under the Code is 180 days from the date of application by the applicant with one-time extension of 90 days. The duties of an IP are quite onerous having regard to role and responsibility cast on the IP. The duties of IP are:

1. To make a public announcement of insolvency process in English language newspaper and regional language newspaper circulating at the location of corporate registered office and the principal office etc.

2. To manage the affairs of the debtor as a going concern;
3. To collect information relating to the assets, finances and operations of corporate debtor for determining the financial position;
4. To collect all claims received from creditors;
5. To constitute a committee of creditors (COC) etc.

The Code also specifies functions and obligations to be observed by the Insolvency Professionals. Where any insolvency resolution, fresh start process under Chapter-II of the Code, liquidation or bankruptcy process has been initiated, it shall be the function of Insolvency Professionals to take such actions as may be necessary in the manner provided in the Code.

### **Registration of Insolvency Professionals:**

**As per Section 3(19) of Insolvency and Bankruptcy Code, 2016**, Insolvency professional means a person enrolled under section 206 with an Insolvency Professional Agency as its member and registered with the Board as an Insolvency Professional under Section 207.

Accordingly, Section 206 of the Code provides that no person is allowed to render service as an IP without being enrolled as a member of the Insolvency Professional Agency and registered with the Board.

The three professional bodies-The Institute of Company Secretaries of India(ICSI), the Institute of Chartered Accountants of India (ICAI) and the Institute of Cost and Management Accountants of India (ICMAI) have formed their 100% subsidiary companies as Insolvency Professional Agencies registered with Insolvency and Bankruptcy Board of India to enroll and regulate the members practicing as Insolvency Professionals (IPs) in accordance with the provisions of Insolvency and Bankruptcy Code, 2016 read with rules and regulations made thereunder.

Such members are also required to register with IBBI as per the procedure laid down under Regulation 5 of IBBI(Insolvency Professionals) Regulations, 2016. The regulations provides that an individual is not eligible for registration unless:

- Has passed National Insolvency Examination; or
- Has passed the Limited Insolvency Examination and has 15 years of experience in management after receiving Bachelor's degree from recognized university; or
- Has passed the Limited Insolvency Examination and has 10 years of experience as practicing CA/ CS/ CWA/ advocate enrolled with Bar Council.

### **Recognition of Insolvency Professional Entities:**

A Limited Liability Partnership, a registered Partnership Firm or a company may be recognized as an Insolvency Professional entity when majority of partners of LLP or firm are registered as Insolvency Professionals or a majority of the whole time directors of the company are registered as Insolvency Professionals.

Recently, on 6th March, 2017, the Insolvency and Bankruptcy Board vide a press release, has recognized two entities- IRR Insolvency Professionals Pvt. Ltd. and AAA Insolvency Professionals LLP as Insolvency Professional Entities (IPE). Subsequently, two more entities-Witworth Insolvency Professionals Private Limited and Gyan Shree Insolvency Professionals Private Limited are further recognized by the Board. Hence, so far there are four IPE recognized by the Insolvency and Bankruptcy Board. An IPE is jointly and severally liable for all acts or omissions of its partners or directors as IPs committed during such partnership or directorship.

*eMagazine from ICSI Mysore Chapter | Edition – 157 May 2017*



## Conclusion:

The IP occupies a pivotal position and acts as an intermediary between the debtor/ creditors on the one hand and the Adjudicating Authority on the other hand and functions under the watchful eyes of the Agency and the Board.



## *Living Room...*

Many hundreds of years ago in a small Italian town, a merchant had the misfortune of owing a large sum of money to the moneylender. The moneylender, who was old and ugly, fancied the merchant's beautiful daughter so he proposed a bargain. He said he would forgo the merchant's debt if he could marry the daughter. Both the merchant and his daughter were horrified by the proposal.

The moneylender told them that he would put a black pebble and a white pebble into an empty bag. The girl would then have to pick one pebble from the bag. If she picked the black pebble, she would become the moneylender's wife and her father's debt would be forgiven. If she picked the white pebble she need not marry him and her father's debt would still be forgiven. But if she refused to pick a pebble, her father would be thrown into jail.

They were standing on a pebble strewn path in the merchant's garden. As they talked, the moneylender bent over to pick up two pebbles. As he picked them up, the sharp-eyed girl noticed that he had picked up two black pebbles and put them into the bag. He then asked the girl to pick her pebble from the bag.

What would you have done if you were the girl? If you had to advise her, what would you have told her? Careful analysis would produce three possibilities:

1. The girl should refuse to take a pebble.
2. The girl should show that there were two black pebbles in the bag and expose the moneylender as a cheat.
3. The girl should pick a black pebble and sacrifice herself in order to save her father from his debt and imprisonment.

The above story is used with the hope that it will make us appreciate the difference between lateral and logical thinking.

The girl put her hand into the moneybag and drew out a pebble. Without looking at it, she fumbled and let it fall onto the pebble-strewn path where it immediately became lost among all the other pebbles.

"Oh, how clumsy of me," she said. "But never mind, if you look into the bag for the one that is left, you will be able to tell which pebble I picked." Since the remaining pebble is black, it must be assumed that she had picked the white one. And since the moneylender dared not admit his dishonesty, the girl changed what seemed an impossible situation into an advantageous one.

### **MORAL OF THE STORY:**

Most complex problems do have a solution, sometimes we have to think about them in a different way.

### **Thinking "Out of Box"...**



## **May Day Special Contemporary Labour Movement and their impact on Labour Law**

The month of May is the month of Labour. International Workers Day is observed on the First of the month and has a long history going back to a massacre of protesting labourers on May 04, 1886 in Chicago in the United States of America. However, May Day, as it came to be known, came into its true prominence in the communist countries in the middle of the 20<sup>th</sup> Century. However, a lot has changed since, at the international and domestic level. Hence, it is important to take a look at some of the recent movements of workers and the changes it brought about in labour law.

In February 2016, the Union Ministry of Labour by notification brought about the following changes:

1. Employees Provident Fund (EPF) members were restrained from withdrawing the entire EPF balance. Workers could withdraw only the employee contribution portion of EPF along with interest. The rest could be withdrawn only upon attaining the age of retirement. Prior to the amendment, the workers could withdraw the entire balance if they remained unemployed for a period of 60 days.
2. Retirement age for the purpose of EPF was raised from 55 years to 58 years. (Though notification does not say so, it must be interpreted as such because it is an amendment to the EPF scheme.)

Combined with this, the Finance Act of 2016 sought to tax 60% of the EPF Balance withdrawn.

However, these changes were met with fierce resistance by labour organizations. Garment workers in Bengaluru, of whom about 90% are women, were particularly strident in their opposition. On 18<sup>th</sup> and 19<sup>th</sup> of April, lakhs of workers took to the streets to protest this right.

While the government was of the opinion that this is a pro labour move, brought about with a view to protect their interests till the time of retirement, the workers did not agree. Workers felt that the restriction on withdrawal of Provident Fund balance would leave them vulnerable in the event of unemployment.

In response to the massive opposition to the move, the Union Government on 19<sup>th</sup> April withdrew the notification.

This focused demand may be contrasted with the General strike called by various trade unions on September 3<sup>rd</sup>, 2016. The strike which saw large participation was not focused on any specific issue

but rather was generally against the proposed liberalization of labour law by the Government, expressed in a twelve point charter:

1. Urgent measures to contain price rise through universalization of public distribution system and banning speculative trade on the commodity market.
2. Concrete measures for employment generation.
3. Strict enforcement of all labour laws and stringent sanctions for violations
4. Universal social security cover for all workers
5. Minimum wages of Rs 18,000 per month
6. Assured pension of Rs 3,000 per month for entire working population
7. Stop disinvestment of central and state public sector undertakings
8. Stop contract work (precarious work) in perennial work and equal wages for same work
9. Removal of all ceilings on payment and eligibility of bonus, provident fund and increase the quantum of gratuity
10. Compulsory registration of unions within a period of 45 days and immediate ratification of ILO conventions C87 and C98
11. Stop labour law amendments
12. Stop FDI in railways, insurance and defence

While a large number participated, the passion of the unions of strike was discernibly lower than that of the garment workers. At any rate, such broad based demands cannot be met by the government in a meaningful way. There was no tangible outcome of this strike.

This dichotomy may hold lessons both for the government and the labour force of this country. A focused reasonable demand will find active support and will also be heeded by the government. A broad demand that is not in sync with the developmental policy of the government is neither sustainable nor is likely to find a meaningful response.

The birth of labour law was with a view to protect industrial peace. It then grew into an instrument to secure the welfare of the workers. High standards set in labour law are meaningless if as a result the law does not cover a vast majority of the workforce as is the case in India today. The present need for labour law is to facilitate job growth and encourage hiring, while at the same time, protecting the interests of workers. This is possible only if labour law as a whole promotes flexibility for both Industry and workers. Measures that lock in industry or workers in particular arrangements must be reduced in favour of those that respect the choice of workers.

## ***Words Worth Million***

All labour that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence.

-Martin Luther King



## Section 10 OF CGST Act

### Composition Levy

#### **Introduction:**

As we all know GST is going to be implemented from 1<sup>st</sup> July 2017 in India

Are you scared of compliance requirement under GST? Got worried of this, do you need an idea to simplify your GST compliance? Do you know about the composition scheme? Do you know whether you fit into that? Will it save your tax cash outflow?

To know answers to the above questions please go through the below article, we have given mathematical formula to find out best option which suits your business.

#### **Provision:**

Section 10 of CGST\ SGST Act has given beneficial provision to SME's whose aggregate turnover does not exceed fifty lakh rupees. Let us split provision word by word and understand its implication. Industry should know the exact provision and scope before opting any scheme.

Sl No.	Section	Definition	Implication / explanation of word given in the definition column
1.	10(1)	Notwithstanding anything to the contrary contained in this Act but	Implication if any other provision in this Act which is contrary this section(Section 10) will not be applicable to the person covered under this section but any provision which is not contrary will equally applicable to such person. Example: 1.Input tax credit, Tax collection etc. are some of the provisions which are contrary to composition scheme. 2. Appeal, recovery etc. which are not contrary to this section.
2	10(1)	subject to the provisions of sub-sections (3) and (4) of section 9,	Sub section (3) of Section 9 categories of supply of goods or services or both on which reverse charge is applicable as notified by Central Govt. under CGST Act  Sub Section (4) of Section 9 reverse charge on supply taken from the unregistered supplier by the registered supplier  <b>Implication of this provision:</b> composition is an

			alternate tax on outward supply and not an alternate tax for inward supply, so if composition supplier procures any inward supply which is liable for reverse charge same should be discharged by the composition supplier under normal provision i.e., under section 9(1) and tax payable for outward supply will be under composition.
3.	10(1)	whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees	<p>Section 2(6) Defines “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;</p> <p>So aggregate turnover includes</p> <ol style="list-style-type: none"> <li>1. all taxable supplies</li> <li>2. exempt supplies</li> <li>3. export of goods or service or both</li> <li>4. Interstate supply supplies</li> </ol> <p>We need to aggregate above supplies of the entire branch in the country having same PAN.</p> <p>Aggregate turnover definition is give under section 2(6) is general which is applicable to all the provisions given in the Act and it includes interstate supply of goods &amp; exports but composition scheme is not available to the supplies who effects such supply so we need to harmonise and read to that extent.</p> <p>i.e., To check eligibility of turnover, we need to add all the above sales, once opted such supplier cannot affect any of interstate supply. We shall discuss this in detail in the subsequent paragraphs.</p>
4.	10(1)	may opt to pay	Definition uses the word “may” which means it is an option given to the supplier and it is not mandatory.
5	10(1)	in lieu of the tax payable by him	This provision is an alternate to tax payable by him under Section 9 (1) and not an alternate for tax payable under sub section 4 & 5 of section 9(i.e. Reverse charge)
6	10(1)	an amount calculated at such rate as may be prescribed, but not exceeding,—	Applicable tax rate for composition tax is as prescribed under rules. ( Act only prescribes the maximum rate)
7	10(1)	(a) one per cent of the turnover	Maximum tax rate payable is 1% on turnover in State or turnover in Union territory in case of a

	<p>in State or turnover in Union territory in case of a manufacturer, (b) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and (c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed</p>	<p>manufacturer, same percentage is notified in draft composition rules.</p> <p>As per Section 2(112) “turnover in State” or “turnover in Union territory” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess;</p> <p>As per this section “turnover in state” includes both taxable supplies &amp; exempted supplies. Hence <b>composition rate of tax is payable on both taxable and exempted supplies.</b></p> <p>Rate of composition levy as per draft rules.</p> <table border="1" data-bbox="609 829 1292 1428"> <thead> <tr> <th>S No</th> <th>Category of registered persons</th> <th>Rate of tax</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Manufacturers, other than manufacturers of such goods as may be notified by the Government</td> <td>1%</td> </tr> <tr> <td>2</td> <td>Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II (supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption)</td> <td>2.5%</td> </tr> <tr> <td>3</td> <td>Any other supplier eligible for composition levy under section 10 and these rules</td> <td>0.5%</td> </tr> </tbody> </table> <p>Above tax rate are given under CGST Act, same rate of tax will be charged under SGST, hence effective tax rate will be twice of the above given tax rate.</p>	S No	Category of registered persons	Rate of tax	1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	1%	2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II (supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption)	2.5%	3	Any other supplier eligible for composition levy under section 10 and these rules	0.5%
S No	Category of registered persons	Rate of tax												
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	1%												
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II (supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption)	2.5%												
3	Any other supplier eligible for composition levy under section 10 and these rules	0.5%												

**Other eligibility & conditions for composition scheme are given under Sub Section 2 of Section 10 and draft composition scheme rules.**

Section 10(2)

- (a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of schedule II;
- (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;

- (c) he is not engaged in making any inter-State outward supplies of goods;
- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

As per the above definition this scheme is not applicable to

- a) Service industry except restaurants which is not selling alcoholic liquor for human consumption
- b) Those suppliers who are dealing with goods which are not leviable to tax under GST like electricity, petroleum products, alcoholic liquor for human consumption.
- c) Supplier effecting interstate supply or export of goods & service cannot opt for composition scheme because as export of goods/ service is regarded as interstate supply
- d) Supplier effecting supply through electronic commerce operator (like flipkart, amazon, snapdeal) cannot opt for composition scheme.
- e) Supplier manufacturing of notified goods cannot opt for this scheme.

Other conditions in Act & rules

- a) All the registration having same PAN should also opt for this scheme.
- b) Any ineligibility in any one registration will lead to disqualification for all the registration having same PAN.
- c) Composition supplier cannot collect tax and issue tax invoice.(bill of supply should be issued)
- d) Applicant should neither be a casual taxable person nor a non-resident taxable person;
- e) At the time of migration to GST regime the goods held in stock by applicant on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State. Hence it is essential for industry to dispose all such stock if they are planning for composition scheme under GST regime.
- f) Applicant shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and
- g) Applicant shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

### **To whom Composition scheme is suitable?**

Composition scheme is not suitable for all the suppliers. Suppliers need to evaluate all the provisions / conditions and if it's suitable then composition scheme can be selected. Below are some categories of suppliers to whom composition scheme is suitable.

- a) Suppliers at the end of value chain,

Composition scheme is suitable to those Suppliers who are supplying goods to end user, i.e. suppliers involved in B2C transactions. B2C transaction normally supplies goods to non-business end user so end user does not demand of input tax credit.

- b) Small Suppliers who does not affect interstate supply & export supplies.
- c) Small suppliers who cannot maintain detailed accounts and input records.
  - a. Exempt from furnishing monthly outward supply Sec 25(1)
  - b. Exempt from Furnishing details of inward supplies Sec 26(1)
  - c. Only Quarterly return instead of monthly returns proviso Sec 27(1) Due Date :18<sup>th</sup> of the succeeding month after end of each quarter (Proviso to Section 27(1))

- d) Having gross profit more than “TNGP”
- e) Supplier who does not have centralised purchase policy.

Under GST centralised purchases not possible, any procurement in one state and transfer to other state will be taxable interstate supply, once supplier affects such taxable interstate supply immediately such supplier will be disqualified form opting composition scheme.

### Decision making tool TNGP under Composition scheme

TNGP is a mathematical formula to find out tax neutral gross profit rate, tax neutral gross profit is one where tax cash out flow is same in both composition and normal tax scheme.

GST is one of the value added tax, each supplier adds value to its supplies and supplier is required to discharge tax in cash to the extent of value addition based on this we can draw below two conclusions

If adjusted GP > TNGP - opt for Composition scheme

If adjusted GP < TNGP - opt for regular GST

$$TNGP = (\text{Composition Rate} / \text{GST Rate On MRP}) * 100$$

For example TNGP for Composition Rate of 5%, GST Rate of 20% and MRP is Rs 100

$$\text{Then GST on MRP} = 100 * 20 / 120 = 16.66\%$$

$$TNGP = 5 / 16.66 * 100 = 30\%$$

In this example Tax neutral gross profit rate is 30% if a supplier’s gross profit is exactly 30% then such supplier’s tax cash out follow will be same under both regular GST scheme and also under composition scheme where the tax rates are 20% & 5 % under regular & composition scheme respectively.

If the supplier’s actual gross profit is more than 30% (TNGP) composition scheme is beneficial, because in composition scheme tax cash outflow is not based on the Gross profit irrespective of gross profit, tax out flow will be same. But under regular scheme tax cash outflow will increase based on the value addition, i.e gross profit.

Hence, if supplier’s gross profit margin is less than 30% opt for regular scheme

If supplier’s gross profit margin is more than 30% opt for composition scheme.

To verify above formula, please look into below cash outflows calculated under both the schemes:

Particulars	Tax rate	MRP	Tax collection/ Tax liability	Input credit	net tax out flow
composition levy	5.00	100.00	5.00	0.00	5.00
Regular GST	20.00	100.00	16.67	11.67*	5.00

\*(100-16.67(tax) \*70% \*20% (70% because we have assumed GP as 30% and tax rate is 20%)

Above formula is based on the below assumption

- a) Supplier is only supplying taxable supplies (if they are supplying non-taxable supplies then above formula will be wrong because composition tax is payable both on the taxable and non-taxable supplies.
- b) Supplier is selling MRP goods and does not charge extra GST on sale value; sale value is equal to MRP.



- c) Supplier is supplying at the end of value chain, where buyer does not demand for Tax invoice to claim input tax credit.
- d) No Input tax credit on indirect expenses, otherwise gross profit rate to be calculated after considering such indirect expenses as direct expenses.
- e) Additional Compliance cost under regular is not factored.
- f) Gross profit should be adjusted for all input eligible expenses.

### Conclusion:

Based on the above discussion, composition scheme is not suitable for all the suppliers, each supplier should select scheme based on the above conditions, restrictions and advantages.



We all know that normally, up to a turnover of Rs. 20 lakhs we don't have to obtain registration under GST. We have also heard that this limit is Rs. 10 lakhs for the 7 North Eastern States and 4 Hill States.

Please let us know whether registration will be needed, if show in which state, in the following situations:

- a. Sales of 19 lakhs in Karnataka and 2 lakhs in Assam
- b. Sales of 5 lakhs in Karnataka and 6 lakhs in Assam
- c. Sales of 9 lakhs in Karnataka and 3 lakhs in Assam
- d. Sales of 1 rupee in Karnataka and 11 lakhs in Assam



## *Opinion To Last Month's Brainy Bits*

### **Relevant Definitions and Provisions to understand:**

1. **Removal u/s 2(96):** Removal in relation to goods means –
  - a. Despatch of goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
  - b. Collection of goods by the recipient thereof or by any other person acting on behalf of such recipient.
2. **Tax Invoice u/s 31:**  
 A registered person supplying taxable goods shall, before or at the time of Removal of goods for supply to the recipient, where the supply involves movement of goods; or Delivery of goods or making available thereof to the recipient, in any other case, Issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed. **Credit and Debit Notes u/s 34:** Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

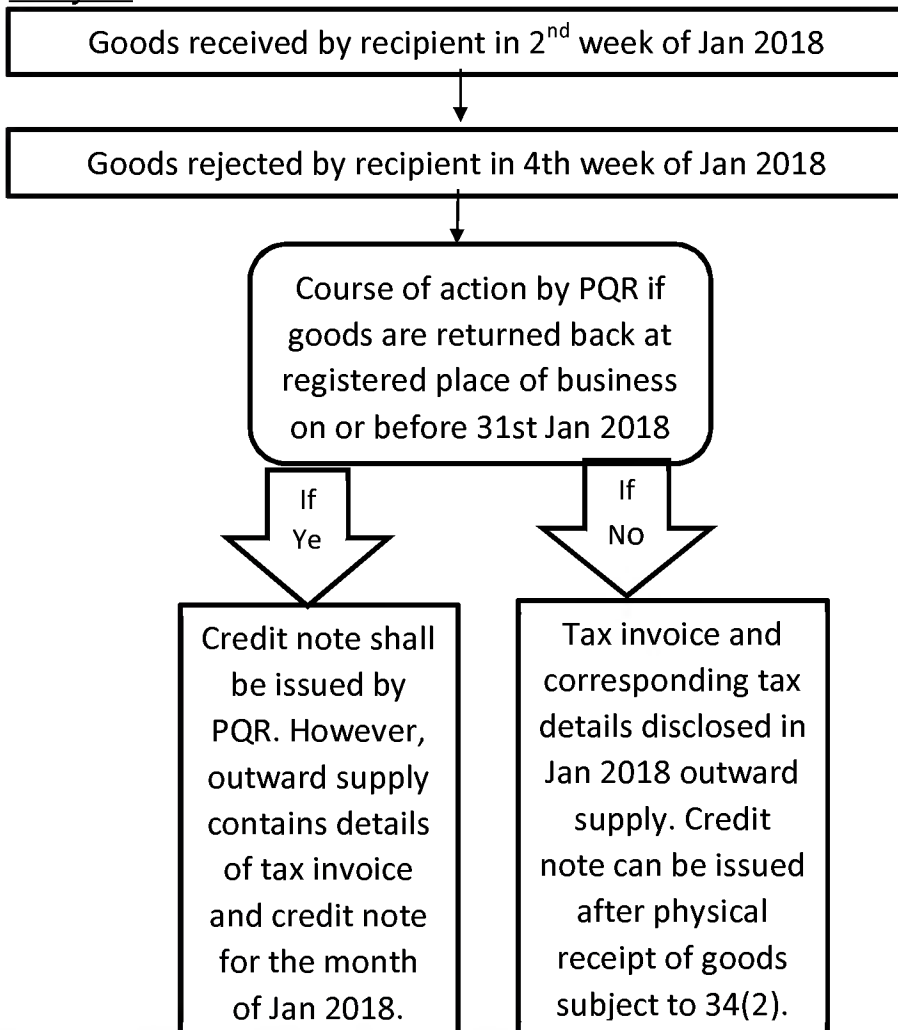
**Summary:**

PQR Ltd. has issued a tax invoice to the recipient as per the Section 2(96) and Section 31 in the first week of January 2018. The goods were rejected by the QA Department of the recipient and the same was intimated to PQR Ltd. in the fourth week of January 2018.

**Relevant Points to be noted:**

- Sale or transfer of ownership by PQR Ltd. is not completed as on 31<sup>st</sup> January, 2018.
- Supply may not be attracted in the hands of PQR Ltd., for payment of GST.
- Details of outward and inward entry for the goods to be recorded in the books of accounts of both supplier (PQR Ltd.) and recipient.
- As per Section 34, a credit note can be issued, in the above case, if the rejected goods are received back by the supplier (PQR Ltd.).
- If the goods are received in the same week as they are intimated, then PQR shall issue a credit note at the same time. The outward supply statement for the month of Jan shall contain details of tax invoice raised and the credit note.
- If the goods are received in some other month, credit note can be issued not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return for the respective year, whichever is earlier.

**Analysis:**



Please send your opinion to, [enewsletter.icsimysore@gmail.com](mailto:enewsletter.icsimysore@gmail.com)

# News Room



## EXPRESSNEWS

- Tata-DoCoMo Delhi HC judgment: A double-edged sword for India
- International tax wing of I-T Dept seeks end beneficiary details of P-notes
- Once sold to Flipkart, Snapdeal staff could be richer by Rs 193 cr
- India opposes investment facilitation talks at WTO

### **Govt looks to scrap deposit insurance norm under company law**

The deposit insurance provision is part of the Companies Act, 2013 but is yet to be made operational.

The government is considering doing away with the mandatory deposit insurance requirement for deposit-taking firms under the company law. The deposit insurance provision is part of the Companies Act, 2013 but is yet to be made operational. The Corporate Affairs Ministry, which is implementing the Act, has been extending the deadline for implementation of this particular provision.

### **Emaar India plans to raise Rs 1,000 cr debt for construction**

The company has already raised Rs 2,500 crore debt in last one year, of which about Rs 1,500 crore was used to replace costlier debt. Realty major Emaar India plans to raise up to Rs 1,000 crore to meet construction expenses as it targets to complete all the ongoing 50 projects over the next two years. The company has already raised Rs 2,500 crore debt in last one

year, of which about Rs 1,500 crore was used to replace costlier debt.

### **GST panel works out rates for 6,000 items**

Ahead of the Goods and Services Tax (GST) Council meeting in Srinagar from Thursday, the Centre and states seem to have arrived at a consensus on the rates for at least 6,000 items. The fitment of contentious items such as soaps, cosmetics, coconut oil and cars would be finalised in a meeting of the state and central officials on Monday and Wednesday.

Companies will have to declare job creation estimates to avail benefits under Startup India

**Companies eyeing benefits under the Startup India programme** will soon have to declare upfront how many jobs they will create in order to qualify as the government moves to make employment generation the guiding principle for all its major programmes. "We will soon notify the new definition for startups, which goes beyond innovation," a senior government official said.



**THE INSTITUTE OF  
Company Secretaries of India**  
IN PURSUIT OF PROFESSIONAL EXCELLENCE  
Statutory body under an Act of Parliament

## ICSI-MYSORE CHAPTER

Cordially invites you for the Two Days' Seminar On

### ***GST, NCLT AND IBC***

Date: 26<sup>th</sup> & 27<sup>th</sup> May, 2017

at

ICSI-MYSORE CHAPTER PREMISES

#### ***Registration Fees*** ***(Including Service Tax)***

Members of ICSI: Rs.2,300/-  
Students of ICSI: Rs. 1,150/-  
Corporate Delegates: Rs.2,500/-

#### ***Mode of Payment***

Cash, Cheque/DD drawn on in favour of "Mysore Chapter of ICSI"  
Online payment through NEFT:  
Account No.: 64090481215 IFSC Code: SBIN0040521  
Bank Name: State Bank of India  
Branch: Metagalli Industrial Area Branch

**MEMBERS**  
**PCH - 08**

**STUDENTS**  
**PDP - 16**

#### ***For Details & Registration***

ICSI-Mysore Chapter  
#125, NHCSL Layout,  
Off. KRS Road, Opp. J K Tyres,  
Metagalli, Mysore – 570016

Call @ 0821-2516065  
Mail to [mysore@icsi.edu](mailto:mysore@icsi.edu)  
Visit [www.icsi.edu/mysore](http://www.icsi.edu/mysore)

CS Balakrishnan V J  
Chairman

CS Pracheta M  
Vice Chairperson

CS Manjunath S  
Secretary

CS Veerash M J  
Treasurer