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OF EIRC OF ICAI

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E-NEWSLETTER OF GUWAHATI BRANCH OF EIRC OF ICAI



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Chairman Speaks

Dear Esteemed Colleagues,

The coronavirus pandemic has put us all in a dire situation. The number of confirmed COVID-19 cases worldwide has surpassed three million and in India breached the 30,000-mark on April 30.

We are witnessing the Lockdown, which nobody ever even imagined. This lockdown has taught us well and challenged us to overcome the crises not only physically but also economically & emotionally.



Self-isolation and lockdown can bring extreme emotions in people and cause anxiety and fear. These can be compounded with constant updates that come with news-reading or watching. For those having the luxury to work from home, the lockdown period has been splendid. For the others, reading books, writing, practising yoga and meditation, pursuing a hobby, cooking, cleaning or taking up art and craft activities, playing board games, spending quality time with family, cultivating creativity and above all thinking about good things can help make the best use of lockdown time and stay away from negative thoughts. It also helps to stay connected over video calls and over-communicate during this time for sharing our experiences and feelings. It helps to see the brighter side and remain hopeful and compassionate.

Yes, if you have done it, I bet you will always cherish the days of lock down and will see a sea change in your lifestyle.

We at ICAI has taken the initiative to sharpen our skills and enhance our knowledge through virtual modes at this hour and learned to work from home. I would like to express my gratitude for your generosity towards the Covid,19 Relief Fund. Let's fight back, contribute towards the nation to rebuild our economy and always remain a partner in nation building.

Stay Alert ; Stay Safe; Stay Healthy.

CA. Sharad Agarwalla

Chairman, Guwahati Branch of EIRC of ICAI



From the Desk of the Editor

Dear Esteemed Members,

“Cherishing your time in the darkest hour is a mark of true character...”

The pandemic continues. And so is the unparalleled effort across the world to conquer it. And one day, we shall. Because being a victor over vices and upholder of virtues are the true traits of any human.



The lockdown has been a real challenge in everyone's life. Physically or psychologically, we all have been impacted. However, just like we can squeeze the lemon into a lemon drink, we can all view this lockdown as “luck in our hometown”. For this has surely been the period for reflection, rumination, revival and renaissance. Some have rethought about their lives, some have sharpened their skills & hobbies, while others have spent quality with their loved ones.

However, impermanence is the permanent truth of life. The time will surely pass, and a newer world will emerge, with greater responsibility and sensitivity, and hence with greater opportunities for everyone. And we, with our renewed energy, will tackle the challenges, rebuild our country and emerge as winners.

Whatever may be the case, let us cherish all these. Staying upbeat is the best choice we can exercise. Giving and helping in any way along with praying is the best act we can perform, and yes, staying alert to all the opportunities in the near future is the best hope we chartered accountants can cling on to.

May happiness and fortune be our ever-guiding light.

Editor, with the entire team of e-newsletter.

CA. Ankit Jallan

Editor, ICAI@Guwahati,

Monthly Newsletter of Guwahati Branch of EIRC of ICAI



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Effective Bank Audit in Light of COVID 19



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Currently our entire country is under lockdown and we all are currently fighting with Covid 19, the audit profession is also facing difficulty in conducting audits during the month of April and May. Further considering social distancing as main defence against Covid 19, we as statutory auditors will be facing lot of challenges for sure.

All of us are facing unprecedented challenges arising out of covid-19 pandemic, we as auditors need to brace up ourselves to undertake the bank branch audits, within the restrictions imposed by the government authorities. Considering the current scenario, there is a possibility of bank branch audit through online access to branches by using technology, in following scenario, we will have to conduct remote audit in case of many branches. Largely it will depend on the zone in which branch and auditors fall as advised by government

AUDITORS OFFICE	AUDITEE BRANCH	AUDIT SCENARIO
GREEN ZONE	GREEN ZONE	PHYSICALLY AT BRANCH
ORANGE ZONE	GREEN/ORANGE/RED ZONE	REMOTE AUDIT
RED ZONE	GREEN/ORANGE/RED ZONE	REMOTE AUDIT
GREEN/ORANGE/RED ZONE	ORANGE ZONE	REMOTE AUDIT
GREEN/ORANGE/RED ZONE	RED ZONE	REMOTE AUDIT

3. ICAI Communication

3.1 ICAI Communication regarding Bank Branch Audit through Remote Access



3.2 ICAI Communication regarding Ethical compliance for NOC from Previous Auditor

Considering the constraints faced by Statutory Branch Auditors this year due to COVID 19, Ethical Standards Board of ICAI has permitted to obtain NOC from Previous Auditors through Email communication instead of registered post.

3.3 ICAI Communication regarding use of digital signatures

The members of ICAI may use an e-signature for signing audit reports, all reports issued pursuant to any attestation engagement and certificates. However, the members need to ensure compliance with all the requirements relating to signature prescribed in the relevant law or regulation, Standards on Auditing and relevant announcements/ clarifications issued by ICAI on the matter including the requirement to mention UDIN. Detailed notification of ICAI is attached as **Annexure B**.

4. RBI Circulars related to COVID19 affecting Branch Audit

Events are always on the calendar all year round. To make the most out of this business, you need a good and stable network of connections along with a good team to help you out. It is okay to focus on one kind of event such as weddings, or be a planner for every kind of event. This helps you narrow down your focus and build your connections. Remember that in the field of events planning, reputation is always at stake. You need to execute every detail very well.

DATE	CIRCULAR
27.03.2020	RBI/2019-20/186/dor.no.bp.bc.47/21.04.048/2019-20 Covid-19 regulatory package
17.04.2020	RBI/2019-20/220/DOR.No.BP.BC. 63/21.04.048/2019-20 COVID19 Regulatory Package – Asset Classification and Provisioning
17.04.2020	RBI/2019-20/219/DOR.No.BP.BC. 62/21.04.048/2019-20 COVID19 Regulatory Package – Review of Resolution Timelines under the Prudential Framework on Resolution of Stressed Assets
27.04.2020	DOS.ARG.No.6605 /08.91.001/2019-20 Statutory Branch Audit of Public Sector Banks (PSBs) FY 2019-20 – Revision in guidelines on account of COVID-19



27.03.2020 RBI Circular – Covid 19 Regulatory Package

1. In respect of all term loans (including agricultural term loans, retail and crop loans), all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India Financial Institutions, and NBFCs (including housing finance companies) (“lending institutions”) are permitted to grant a moratorium of three months on payment of all instalments¹ falling due between March 1, 2020 and May 31, 2020. The repayment schedule for such loans as also the residual tenor, will be shifted across the board by three months after the moratorium period. Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period.
2. The banks have been permitted to grant a moratorium period of three months on payment of all instalments to all types of term loans which are falling due between March 01, 2020 and May 31, 2020 and accordingly the residual tenor of the account would be extended to the extent of such moratorium period granted. The footnote to the circular specifies that Instalments will include the following payments falling due from March 1, 2020 to May 31, 2020: (i) principal and/or interest components; (ii) bullet repayments; (iii) Equated Monthly instalments; (iv) credit card dues.
3. In respect of working capital facilities sanctioned in the form of cash credit/overdraft (“CC/OD”), lending institutions are permitted to defer the recovery of interest applied in respect of all such facilities during the period from March 1, 2020 upto May 31, 2020 (“deferment”). The accumulated accrued interest shall be recovered immediately after the completion of this period.

The banks have been permitted to defer the recovery of instalment of term loans and interest applied on term loans and working capital facilities during the period March 01, 2020 upto May 31, 2020.

The captioned RBI circular does not grant any relief to other facilities like LCBD and Bill Discounting as both are neither in the form of Term Loan nor in the form of Cash Credit / Overdraft facilities.

The captioned RBI circular does not grant any relief to Investment portfolio of the bank.

4. Easing of Working Capital Finance – In respect of working capital facilities sanctioned in the form of CC/OD to borrowers facing stress on account of the economic fallout of the pandemic, lending institutions may recalculate the ‘drawing power’ by reducing the margins and/or by reassessing the working capital cycle.

This relief shall be available in respect of all such changes effected up to May 31, 2020 and shall be contingent on the lending institutions satisfying themselves that the same is necessitated on account of the economic fallout from COVID-19.

Further, accounts provided relief under these instructions shall be subject to subsequent supervisory review with regard to their justifiability on account of the economic fallout from COVID-19.



5. Classification as Special Mention Account (SMA) and Non-Performing Asset (NPA)

The relief granted by banks to the borrower as specified and permitted under the said circular, will not be considered as concession or change in terms and conditions of loan agreements due to financial difficulty of the borrower under paragraph 2 of the Annex to the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 dated June 7, 2019 ("Prudential Framework"). Consequently, such a measure, by itself, shall not result in asset classification downgrade.

This circular does not distinguish between Standard Accounts and Non-Performing Accounts and thus, the benefit of relaxation provided under this circular would be available across classifications of Assets. However, any relief granted over and above than specified in the said circular may result in asset classification downgrade.

17.04.2020 Circular – COVID 19 Regulatory Package – Asset Classification and Provisioning

1. In respect of Term Loan accounts classified as standard as on February 29, 2020, even if overdue, the moratorium period, wherever granted, shall be excluded by the lending institutions from the number of days past-due for the purpose of asset classification under the IRAC norms.
In case if a Term Loan account has not opted for the moratorium period, the benefit of the exclusion of the period between March 01, 2020 to May 31, 2020 in calculation of delinquency for asset classification would not be available.
2. In respect of working capital facilities sanctioned in the form of cash credit/overdraft ("CC/OD"), the Regulatory Package permitted the recovery of interest applied during the period from March 1, 2020 upto May 31, 2020 to be deferred ('deferment period'). Such deferment period, wherever granted in respect of all facilities classified as standard, including SMA, as on February 29, 2020, shall be excluded for the determination of out of order status.
3. In case of Term Loans, wherein the benefit of moratorium period has been availed and such moratorium period has also been granted for the purpose of calculating the delinquency related to asset classification, on such accounts the a general provision of 10% would be required to be made to the extent of total outstanding in the loan accounts in phased-wise manner as follows:
 - a. Quarter ended March 31, 2020 – not less than 5 per cent
 - b. Quarter ending June 30, 2020 – not less than 5 per cent

The said provision would be applicable only in the cases wherein such accounts would otherwise (i.e., without availing the benefit related to asset classification) would have been marked as NPA and the said provisioning requirement will not apply to the accounts which otherwise would have continued to be under standard category. The following chart includes illustrative examples to clarify further:



(Illustration: the account is standard account as at February 29, 2020 and has availed a moratorium period for payment of EMIs for a period of 3 months (between March 01, 2020 to May 31, 2020):

Instalment Overdue Since	Provision Required	Provision Required For The Quarter
15.12.2019	YES	MAR'20 – 5% JUN'20 – 5%
01.01.2020	YES	MAR'20 – 5% JUN'20 – 5%
15.01.2020	YES	JUN'20 – 10%
29.02.2020	YES	JUN'20 – 10%

4. In case of working capital facilities wherein the benefit of exclusion of period of March 01, 2020 to May 31, 2020 is availed, a general provision of 10% would be required to be made to the extent of total outstanding in the loan accounts in phased-wise manner as follows:
- (i) Quarter ended March 31, 2020 – not less than 5 per cent
 - (ii) Quarter ending June 30, 2020 – not less than 5 per cent

The said provision would be applicable only in the cases wherein such accounts would otherwise (i.e., without availing the benefit related to 'out of order') would have been marked as NPA and the said provisioning requirement will not apply to the accounts which otherwise would have continued to be under standard category.

The above provisions may be adjusted against the actual provisioning requirements for slippages from the accounts reckoned for such provisions. The residual provisions at the end of the financial year can be written back or adjusted against the provisions required for all other accounts.

The above provisions shall not be reckoned for arriving at net NPAs till they are adjusted against the actual provisioning requirements as specified earlier. Further, till such adjustments, these provisions shall not be netted from gross advances but shown separately in the balance sheet as appropriate.

The said provision is required to be made to the extent of the balance outstanding in the account wherein such benefit is availed and thus is not required to be made borrower-wise.

As regards the accounts which have been marked as NPA as at February 29, 2020, the asset classification norms based on subsequent aging would continue as per usual asset classification. Thus, the relaxation specified in this circular is limited to the extent the borrower accounts which were standard as at February 29, 2020 and not otherwise.



It would be pertinent to note that the said circular specifies as regards maintenance of status quo of account classification as at February 29, 2020 upto May 31, 2020 but that does not preclude upgradation of an NPA account on account of extinction of delinquencies in the said account due to which the account was classified as NPA (e.g.: In case of Term Loan account, borrower has repaid the overdue amount to the fullest extent).

17.04.2020 RBI Circular – COVID19 Regulatory Package – Review of Resolution Timelines under the Prudential Framework on Resolution of Stressed Assets

Lenders are required to implement a resolution plan in respect of entities in default within 180 days from the end of Review Period of 30 days as per RBI Circular dated 07.06.2019.

1. it has been decided that in respect of accounts which were within the Review Period as on March 1, 2020, the period from March 1, 2020 to May 31, 2020 shall be excluded from the calculation of the 30-day timeline for the Review Period. In respect of all such accounts, the residual Review Period shall resume from June 1, 2020, upon expiry of which the lenders shall have the usual 180 days for resolution.
2. In respect of accounts where the Review Period was over, but the 180-day resolution period had not expired as on March 1, 2020, the timeline for resolution shall get extended by 90 days from the date on which the 180-day period was originally set to expire.
3. Consequently, the requirement of making additional provisions specified in paragraph 17 of the Prudential Framework dated 07.06.2020 shall be triggered as and when the extended resolution period, as stated above, expires.
4. In respect of all other accounts, the provisions of the Prudential Framework shall be in force without any modifications.
5. The lending institutions shall make relevant disclosures in respect of accounts where the resolution period was extended in the 'Notes to Accounts' while preparing their financial statements for the half year ending September 30, 2020 as well as the financial years FY2020 and FY2021.

27.04.2020 RBI Circular – Statutory Branch Audit of Public Sector Banks (PSBs) FY 2019-20 – Revision in guidelines on account of COVID-19

In view of the difficulties expressed by certain banks in the matter of conducting Statutory Branch Audit in PSBs on account of lockdown situation prevailing due to the spread of COVID-19 in the country, the matter was examined by RBI.

It has been decided to modify the extant guidelines for coverage of statutory audit as under:



Extant Guidelines	Revised Guidelines
<p>“Statutory branch audit of PSBs may be carried out for all branches with Advances of ₹ 20 crore & above and 1/5th of the remaining branches covering a representative cross section of rural/semi urban/urban and metropolitan branches, predominantly including branches which are not subjected to concurrent audit, so as to cover 90% of advances of a bank. CPUs/LPUs/and other centralized hubs by whatever nomenclature called would be included in the one fifth of the remaining branches every year</p>	<p>“Statutory branch audit of PSBs may be carried out so as to cover 90% of all funded and 90% of all non-funded exposures of the bank. The banks may try to ensure that the selection of branches and centralised hubs for statutory audit include a representative cross section of rural/semi-urban/urban and metropolitan branches including branches which are not subjected to concurrent audit.” This is expected to give some flexibility to banks to reduce the number of branches covered under branch audit without compromising on the percentage of coverage of business of the bank</p>

In case of banks where the branch audit exercise for FY 2019-20 has already witnessed progress as per extant guidelines, the relaxations in coverage may be utilised, to the extent required, so as to address disruptions faced due to the current situation.

Depending on the impact of corona virus and lockdown situation in specific areas, PSBs may take adequate precautionary measures to ensure safety of concerned auditors and bank officials by implementing such procedures that may be required, including making arrangements to provide documents/information required by auditors through electronic medium wherever feasible and minimize physical movement by judicious allocation of branches.

Banks facing problems, if any, on account of refusals to take up assignments by the branch auditors, may approach RBI for approval to appoint additional audit firms selected from the list of recommended audit firms made available by RBI.

The date for submission of branch allocation details to RBI has been extended from the earlier conveyed date of April 30, 2020 to June 15, 2020.

All other instructions issued by RBI pertaining to Statutory Branch Audit as communicated from time to time remain unchanged.

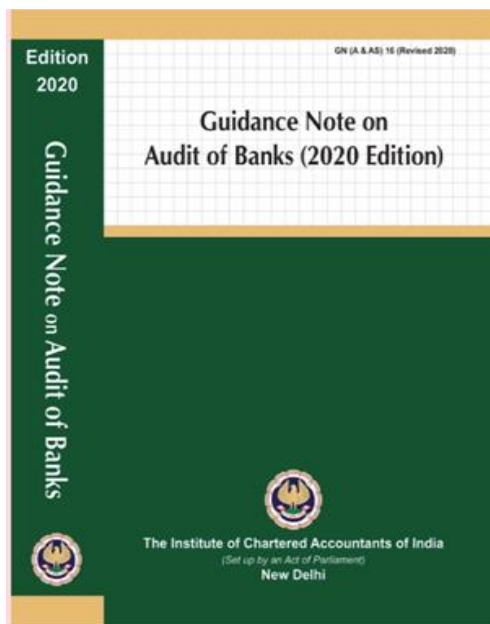
The contents of this letter shall immediately be brought to the attention of the Audit Committee of the Board (ACB) as well as the Statutory Central Auditors of the respective banks.



6. Important Points to Remember During Bank Branch Audit

6.1 Guidance Note on Audit of Bank (2020)

Statutory Branch Auditors should utilise the extra time available during this lockdown and plan the bank audit exercise properly.



Read and use the important audit guidance through the Guidance Note on Audit of Banks 2020 issued by ICAI.

You can download the same from ICAI website by using following link

https://www.icai.org/new_post.html?post_id=16360

6.2 Audit Planning

- Check compliance with provisions of Applicable Act for the Bank
- Read through the Appointment Letter carefully and issue Acceptance Letter
- Issue letter for checking with Previous Auditor about their NOC
- Review requirements from the Closing Manual / Circular of Bank
- Based on all above, issue an Audit Engagement Letter to the branch.
- Issue a letter to the branch for obtaining Basic Information from branch. In case of remote / online audit the format is given in Annexure A
- Prepare Audit Program / specific Checklist for the audit
- Study relevant RBI Circulars and check for the compliance
- Train the team members regarding the scope and coverage of bank audit.

6.3 Audit Program

A detailed revised branch audit program is given in Guidance Note on Audit of Banks 2020, which may be used by the statutory branch auditors. Audit program should cover primarily the following:

- Define broadly the scope of audit.
- Include Certificates in main audit plan.
- Identify the thrust areas.
- Set materiality levels standards for each area.
- Lay down over all time schedule.
- Weak areas identified during the Audit should have extra focus.
- Cover broadly Physical verification of assets and other securities
- Checking of Sensitive Accounts / Frauds / Sundry Assets / Suspense Account / Inter Branch reconciliation / Contingent Liabilities / Contingent Liabilities not acknowledged



6.4 Audit Report

- Illustrative Format of Statutory Audit Report is given in Guidance Note on Bank Audit 2020 which may be used by statutory branch auditors
- If the statutory audit report is without modifications, then kindly use report as suggested as per SA 700.
- In case of modifications in the audit report, then kindly use report as suggested as per SA 705
- In case of emphasis of matter paragraph in the audit report, then kindly use report as suggested as per SA 706
- If at all the statutory branch auditor want to highlight any Key Audit Matter, then they should report / communicate the same to Statutory Central Auditors
- Make sure that the entire hard work done by auditors is properly and effectively reported in Statutory Audit Report / MOC / LFAR.

6.5 Memorandum of Changes

The bank generally provides formats in which the Memorandum of Changes (MOCs) needs to be suggested / recorded by Auditors / branches. Make use of the suggested formats and issue MOCs. Summary of all such MOCs as suggested below should be appended with Statutory Audit Report.

Memorandum of Changes (summary)			
Particulars	No	Increase	Decrease
In respect of Income			
In respect of expenditure			
In respect of Assets			
In respect of Liabilities			
In respect of Gross NPAs			
In respect of Provision on NPAs			
In respect of Classification of Advances			
In respect of Risk Weighted Assets			
Other items (if any)			

Kindly make sure that the Modifications to any account head, NPA recognition and Risk weighted assets, needs to be suggested through MOC only. Any such modification should not be done through any other reports except the MOC formats as suggested above.





6.6 Long Form Audit Report

Long Form Audit Report (LFAR) is an Internal Control Questionnaire with comprehensive scope and coverage in bank branch audit. It's a very important report for readers such as Statutory Central Auditors of the bank and also the Management of the Bank.

It covers all items of Balance Sheet (GL) and Profit and Loss Account (PL) in bank branches. It is very important checklist for preparing / updating Audit Plan / Audit Program. Important points to remember while using LFAR in bank branch audit

- Read All questions in LFAR
- Plan & Design Audit Program to cover all aspects of LFAR
- Prepare separate checklists for each point to be reported.
- Record the extent of checking / sample selected.
- Proper documentation & collecting SAAE during the audit.
- Write descriptive answers. Include facts, figures and examples to the extent possible in all answers to the questions.
- Avoid answers such as YES / NO / NOT APPLICABLE
- Observations resulting in adjustments to account heads needs to be reported along with MOC
- Discuss the contents of report with Branch Management
- Obtain Management Representation from Branch Manager on various matters based on Audit.
- LFAR is an independent report, hence do not give cross reference or qualifications or MOC in LFAR.

6.6 Certification in Bank Branch Audit

The certification in bank branch audit is another area which needs special attention by auditors. Most of the certificates are in the formats prescribed by the bank which demonstrates "Absolute Assurance" whereas actually it is observed that the statutory branch auditors conducts verification of these various certificates on test check basis along with statutory audit which demonstrates "Reasonable Assurance".

The statutory branch auditors should make use of Guidance Note on Reports and Certificates for Special Purpose issued by ICAI while issuing various certificates and also use Report format as prescribed therein for all these certificates issued during the bank branch audit.



Also make sure that the following points are considered for certificates:

- Plan the Certificates related work along with Audit
- Audit Program should include verification of Certificates as required by the terms of appointment
- Verification of data / information is must and auditor should define the same at the planning / execution stage
- Decide the % of testing based on Materiality and Sample Selection criteria followed by auditors
- In the cover report for certificates, mention the basis of checking as test check basis on Certificates by preparing report as suggested in Guidance Note
- Make sure that proper documentation for each certificate signed is maintained
- 1 UDIN number should be generated for all the certificates for 1 branch.

Annexures

Kindly click here to download Annexure A:

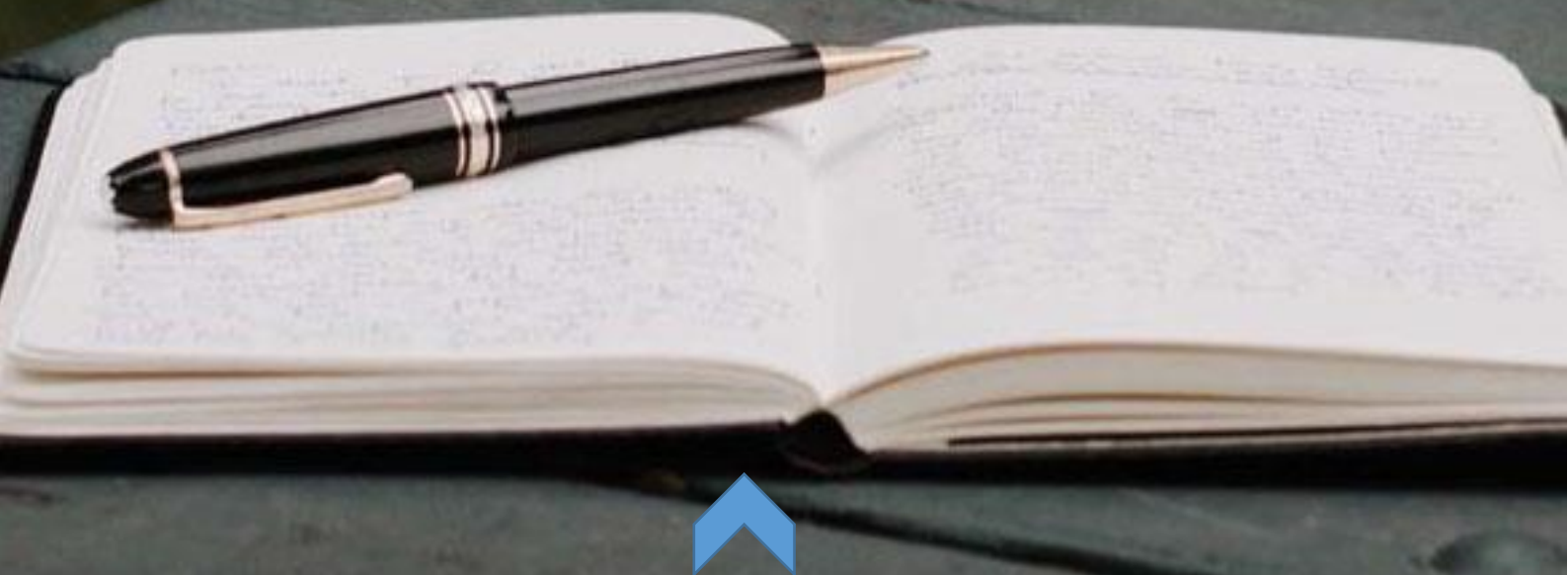
Kindly click here to download Annexure B:



**ICAI Guwahati cordially invites all its
Fellow Readers to contribute
Opinions/Pieces/Articles/Narratives
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**Latest by the 25th of every month along
with your picture, contact details and a
brief Bio.**



Some Important Advanced Rulings under GST



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1. Whether GST is payable under RCM on the salary paid to the directors of a company?**Held: Yes**

In the case of **M/s. Clay Craft India Pvt. Ltd.-AAR Rajasthan**, the applicant is a private limited company. Its directors are working as employees of the company for which they are being compensated by the company by regular salary and other allowances. The directors are treated at par with other employees of the company. The applicant has sought an advance ruling on whether GST is payable under RCM on the salary paid to the directors?

The applicant submitted that the salary being paid to the directors are booked as 'Income from Salary' in their personal I.T returns. Further, the services provided by an employee to his employer are under clause-1 of the Schedule-III of the CGST Act, 2017. It also stated that the term 'employee' has not been defined under GST Act. As per Cambridge Dictionary, an employee is 'someone who is paid to work for someone else'. Therefore, the directors are nothing but employees only.

The Authority stated that consideration in form of salary and commission paid to the Directors by the company is against the services provided by them to the company and the company is the recipient of such services and the directors are the supplier. It also explained the term 'consideration' in terms of section 2(31) of the CGST Act, 2017. Further, it observed that consideration paid to the directors is covered under the Notification No. 13/2017 C.T (R) dated 28.06.2017 which provides the list of services on which tax is to be paid under RCM by the recipient. Also, consideration paid to the directors is against the supply of services provided by them to the applicant company and are not covered under Schedule-III of the CGST Act, 2017. Thus, the service rendered by the director to the company for which consideration is paid by them in any head is liable to GST under RCM.

Author's Comment: The said ruling is given without appraising the facts and position of law in correct perspective. Salary paid to Director should not be equated with remuneration or sitting fee inasmuch as the former is governed by master-servant relationship and the latter is not such a case. Hence the author feels that it will be corrected by the AAAR once matter is taken up explaining the facts properly. So there should not be any GST applicable on Salary paid to Directors as it will be governed by Sch-III only.



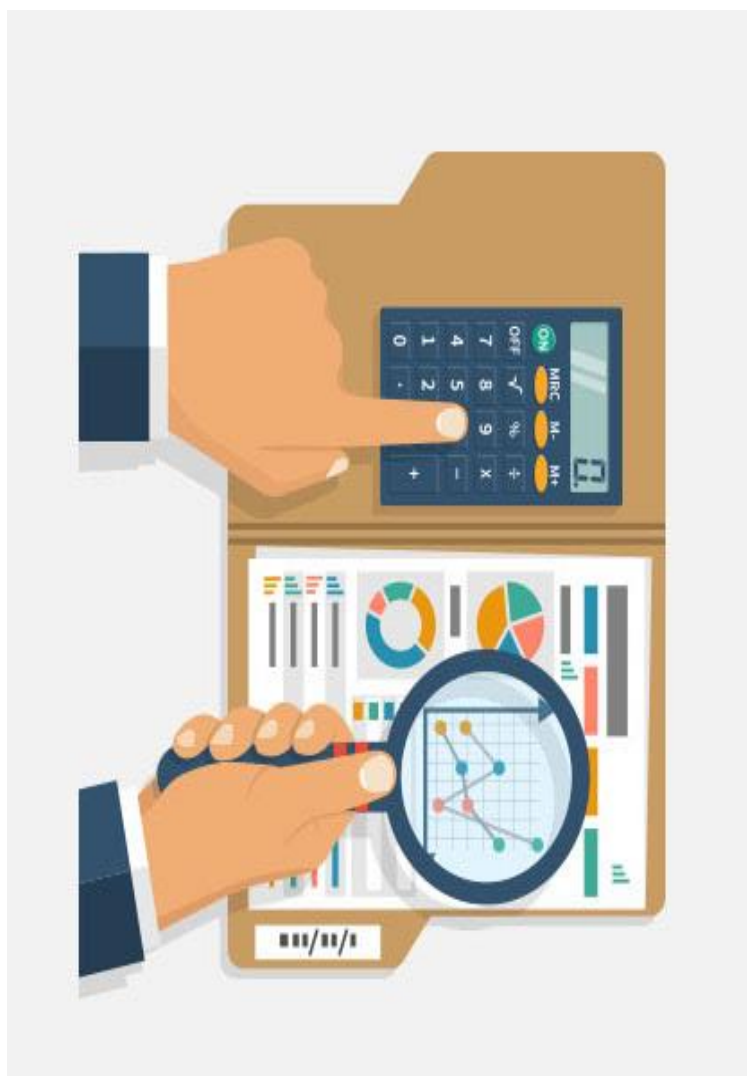
2. Whether commission earned from auctioning of flowers is exempt from GST?

Held: Yes

In case of **M/s International Flower Auction Bangalore Limited-AAR Karnataka**, the applicant is in the business of auctioning flowers and are a commission agent for the flower growers. It is established with the aim to strike the potential of both export and domestic flower market, with a prime objective to auction high quality cut flowers on a daily basis.

The applicant creates a platform for both growers and buyers who can earn great profits. It takes 3.5% from growers and 1.5% from buyers as commission for services rendered. It further submitted that it falls within the definition of "Agent" under the CGST Act, 2017. It also stated that the commission earned is exempt from tax in terms of Notification No. 12/2017-C.T (R).

The Authority made a reference of the Circular No. 57/31/2018-GST dated 04.09.2018 issued by CBIC. As per the circular, the provision of goods by the growers to the applicant is covered under Entry No. 3 of the Schedule-I of the CGST Act, 2017. It further stated that the applicant falls within the definition of 'Agent' under the CGST Act, 2017. Since, the applicant is a commission agent and he is providing services for sale or purchase of agricultural produce, the same is exempted under the Notification No. 12/2017-C.T (R) dated 28.06.2017.



3. Whether goods supplied through PDS are exempt from GST?

Held: No

In the case of **M/s Dipeet Agarwal- AAR West Bengal**, the applicant supplies consumer goods like biscuits, soaps etc. earmarked 'FOR PDS SUPPLY ONLY' to fair price shops/PDS distributors. It seeks a ruling on whether he is liable to pay GST on such supplies of goods?

The applicant submitted that he acts as an associate of the West Bengal Essential Commodities Supply Corporation Ltd. against payment of a monthly administrative charge at a rate fixed by the Government of West Bengal. He bears all cost and charges, including packaging, loading, railway freight, demurrage etc. and bears all the risk associated with transportation, warehousing and quality of the products. He is merely acting as the canalising agency on behalf of the Govt. and the WBECSC Ltd, having no control over the pricing and the market share. Hence, his supplies of goods for distribution through PDS should be exempt from payment of the GST.

The Authority stated that supply of goods through PDS is not exempt under Notification No. 2/2017-C.T (R) dated 28.06.2017 as amended from time to time. Further, the applicant's services are not covered under the Schedule-III of the CGST Act, 2017. Hence, the supply of goods is taxable under GST.

4. Whether GST is leviable on salaries paid to expat employees for services rendered by them to Indian office of foreign company?

Held: No

In the case of **M/s Hitachi Power Europe GmbH –AAR Uttar Pradesh**, the applicant, a foreign company, has been awarded with contracts for supply of goods and supervisory services by companies incorporated under the Companies Act, 2013 of India. It has sought an advance ruling on whether GST is applicable on the accounting entry made for the purpose of Indian accounting requirements in the books of account of Project Office for salary cost of Expat employees?

As per the applicant, under the Foreign Exchange Management Act, 1999, a Foreign Company executing projects in India is permitted to open an office in India to undertake such projects, commonly referred to as "Project Office". For carrying out the projects in India, the Expat employees (employees of the Head Office) would work out from the Project Office in India. As the Project Office is not a separate legal entity and merely an extension of Head Office in India, these Expat employees are employees of Project Office. It contended that the transaction under reference would not fall under the meaning of the term 'supply' for the reason that there is no intention to provide or receive services and hence do not fall under the scope of the term 'Supply'. Further, the said transaction is covered under the scope of activities or transactions



specified in Schedule III - "services by an employee to the employer in the course of or in relation to his employment" and is hence outside the ambit of GST and the transaction will not qualify as 'import of services'.

The Authority stated that as per Notification No. FEMA 22 (R)/2016-RB, dated 31 March, 2016, it could be understood that a Project Office is merely an extension of the foreign company in India to undertake the project in India and limited to undertake compliances required under various tax and regulatory requirements in India. Accordingly, the transactions between the foreign company and project office are an intra-company affair. Further, Further the project office is fulfilling all the obligations as employer with reference to expat employees and "Employee-Employer relation exist between the project office and expat employees". Therefore, the service provided by the expat employees to the project office fall under the category of "Services by an employee to the employer in the course of or in relation to his employment" of Schedule-III of the CGST Act, 2017. Accordingly, no GST is leviable on the salary paid to the expat employees and reflected in the books of account of the project office.

5. Whether consultancy services provided to the State Government for upgrading of highways and roads are taxable under GST?

Held: Yes

In the case of **M/S Sheladia Associates. Inc.-AAR Mizoram**, the applicant has been rendering Project Management, Project Planning and Construction Supervision services for improving 81 KM of State Highways and Mizoram District Roads for enhanced connectivity. An advance ruling has been sought by the applicant relating to the applicability of Sl. No. 3 of the Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 to the services provided by them by way of providing engineering and consultancy services under the contract signed by them with the Public Works Department, Government of Mizoram.

The applicant submitted that three requirements have to be satisfied for claiming exemption under the said notification:

a) No supply of goods.

Supply shall be pure services, which shall not include works contract services or composite supplies involving supply of services. In other words, the contract should not include any supply of goods either by way of works contract or composite supply.

b) Recipient of Service.

The recipient should be Central Government, State Government or Union Territory or Local Authority or a Governmental Authority.

c) Functions of Panchayat or Municipality

Services should be by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution.



The applicant contends that it satisfies all the above conditions and services provided by it should fall under the Sl. No. 3 of the Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017.

The Authority stated that it is a case where no supply of goods, against consideration or payment is involved. Hence, it is a case of Pure Service, although the subject of Contract signed between both the parties mentions it as 'Works Contract Service'. The ambit of the service provided by the applicant does not fit into the definition of "Works Contract" as per Section 2(119) of the CGST Act, 2017/MGST Act, 2017 as there is no involvement of supply of goods. It is not a composite supply also as defined under Section 2(30) of the CGST Act, 2017/MGST Act, 2017. Thus, being a Pure Service, it qualifies for notification benefits vide Sl. No. 3. Chapter 99 of the Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017. Also, the second condition is fulfilled as the recipient is the State Government of Mizoram, through Public Works Department. Thus, on this account also the service rendered by the Consultant qualifies for the notification benefit.

However, it fails to fulfil the third condition as the services are not covered under Article 243G and Article 243W of the Constitution of India.

Hence, the services provided to the State Government for upgrading of highways and roads are not exempt under GST

6. Whether an importer can take credit of IGST paid on import of goods where imported goods are directly supplied from the port to customer's place without obtaining registration in the state where goods are imported?

Held: Yes

In case of **M/S Kardex India Storage Solution Pvt Ltd.–AAR Karnataka**, the applicant is an importer of storage solutions and vertical storage solution machines from Germany and distributes the imported goods to industrial customers all over India. The applicant intends to import the goods to the nearest port of the customer's location and supply directly to the customer's without bringing the goods to its registered place. The applicant has sought an advance ruling on whether he is entitled to claim the credit of IGST paid on the import of goods?

The applicant contended that the place of supply in case of import of goods is the location of the importer as per section 11(a) of the IGST Act, 2017. Further, as per IEC, the location at which the importer files the bill of entry for clearance of goods and where importer is registered is the location of the supplier. Therefore, the place of supply of the imported goods would be the registered place of business premises. It further submitted that though the goods are supplied directly from the port of import to the customer's place, it is deemed that the imported goods



are received at the registered place of business of importer and then supplied to the customer's place. It has placed reliance on the Advance Rulings Authority, Maharashtra in the case of **M/s Aarel Import Export Pvt. Ltd and M/s Sonkamal Enterprises Pvt. Ltd.**

The Authority stated that goods imported into the territory of India, till they cross customs frontiers of India, shall be treated as supply of goods in the course of inter-state trade or commerce in terms of section-7(2) of the IGST Act, 2017 and the applicant is liable to pay IGST on the value of goods imported into India on RCM basis. Further, section-20 of the IGST Act, 2017 read with section-16 of the CGST Act, 2017 provides that IGST paid on import of goods can be utilized as the credit of input tax if such imported goods are used in the course or furtherance of business. Therefore, the applicant is entitled to claim the credit of IGST paid on import of goods. Also, he is liable to issue IGST tax invoice to its customers in terms of section-20 of the IGST Act, 2017 read with section-31 of the CGST Act, 2017.

7. Whether supply of stores in foreign going vessels is a zero rated supply under GST?

Held: No

In the case of **M/s Shewratan Company Pvt. Ltd.-AAR West Bengal**, the applicant supplies foreign going vessels stores like paint, rope, spare parts, electronic equipment etc. It seeks a ruling on whether supplies of stores in foreign going vessels are export under GST?

The applicant submitted that section 88(a) of the Customs Act, 1962 provides that any warehoused goods may be taken on board any foreign going vessel as stores without payment of import duty if a shipping bill or a bill of export has been presented in respect of such goods in the prescribed form, the export duty etc. has been paid and the proper officer has passed an order for clearance of such goods for exportation. Section 89 of the 1962 Act provides that the goods manufactured in India and required as stores on any foreign going vessel may be exported free of duty. Hence, the supply of stores in a foreign going vessel is export and a zero-rated supply in terms of section 16 of the IGST Act.

The Authority stated that warehoused goods can either be cleared for home consumption or exported. However, when used as stores in a foreign going vessel, such goods are neither taken out of India (unless they are specifically marked for a foreign destination) to a place outside India nor cleared for home consumption. At the same time, they need documentation like export because such goods cross the limits of the customs area when taken on board the foreign going vessel. It further observed that the export of goods under section 2(5) of the IGST Act and section 2(19) of the 1962 Act means taking the goods from India to a place outside India. The place of supply shall, in terms of section 11(b) of the IGST Act, be the location outside India. Export under the IGST Act (and the 1962 Act as well),



therefore, has a much narrower meaning. A foreign going vessel anchored within the territory of India is not a place outside India and taking the stores on board such a vessel does not amount to supply to a location outside India. Section 69 of the Customs Act, 1962 cannot, therefore, cover within the ambit of export the case where the warehoused goods are taken on board a foreign going vessel. Hence, the applicant's supply of stores to foreign going vessels, as defined under section 2(21) of the Customs Act, 1962 Act, is not export or zero-rated supply, unless it is marked specifically for a location outside India.

8. Whether the activity of collecting exam fee (charged by any university or institution) from the students and remitting to that particular university or institution without any value addition to it, amounts to taxable supply under GST?

Held: Exempt

In the case of **M/s Arivu Educational Consultants Pvt. Ltd.- AAR Karnataka**, the applicant is a private limited Company which provides various coaching and training services in relation to various degrees. In this process, the applicant collects certain amount as examination fees from the students and remits the same to the respective institute or college or universities without adding any profit element. It has sought an advance ruling on whether the activity of collecting exam fee from the students and remitting to that particular university or institution without any value addition to it, amounts to taxable supply under GST? The applicant contends that they are merely acting as pure agent and hence the service is not liable to GST.



The Authority stated that the applicant is an educational consultant and a professional in the field of education who uses his experience in teaching, to help with the curriculum development. The applicant conducts the training or coaching classes for the students. It does not have any specific curriculum and do not conduct any examination or award any qualification. Hence, the applicant is not an educational institution in terms of the Notification No.12/2017-C.T(R) dated 28.06.2017.

Further, the amount charged by the applicant as examination fees is separately indicated in the invoice issued to the students, apart from the training fees. Hence, the applicant satisfies all the conditions of the pure agent as narrated in Rule-33 of the CGST Rules, 2017. Therefore, the amount of fee collected by the applicant from the students as exam fees which is remitted to the respective colleges or institution without any profit element is excluded from the value of supply.



A Letter to Parents...



CA. Saurav Somani, Guwahati, Assam
casauravsomani@gmail.com



Imagine that a youth recovers from Corona and is about to get discharged from the hospital. He/She pens down a letter of hope for parents...

My dearest Maa and Papa,

As I write this letter, I've to confess I cannot stop my tears, and my hands are literally shaking...

Oh, it is nothing to worry about. These tears are of joy, flowing from my heart. The very thought of going home finally and meeting you, Papa and Maa, after such an unbearably long time is causing me to shiver with delight. I simply cannot express how immensely happy and peaceful I am! How very grateful I'm to you both and everyone! You know that I've finally recovered, as my test finally came negative. Yes, we've just talked over phone, and I can still hear your cries of sheer happiness ringing in my ears. But I wasn't able to express my feelings, so I thought to pen down this letter...and, Papa, please, please tell Maa not to cry anymore. I'm all fit and all eager to relish her handmade besan ke ladoo very soon!

As you are aware, it all began with cold and cough followed by a mild headache, more than two weeks ago. You were worried, and gave me general medicines. Yet, it didn't help. My condition worsened and soon I was having breathing problems. The doctors were called. I remember very well, the fear in your eyes, as I was taken away to the city hospital for the test, and admitted to an isolation ward where no one was allowed except the doctors. A swab test was done and a day later, I was tested positive.

My whole world turned upside down. Thousand questions rang in my mind. Perhaps, I got infected while dealing with a customer at office, and what about others I have met? You were also home quarantined, along with others. Guilt gnawed at my insides, and I spent two sleepless nights despite your assurance whenever you called me. Then after some days, I heard the doctors say: 'Your parents along with others have been tested negative. They are safe and home quarantined.' Maa and Papa, I couldn't stop myself from crying with relief. I thanked to the heavens...

Corona has wreaked much havoc. But there's no denying that it has taught us so much. Those days in the isolation ward were tough; but despite the pains, there were small things to be thankful for, teaching me crucial lessons. Your daily calls and heartfelt assurances were the strongest tonic; friends, cousins, aunts and uncles called me often. I came to realize how fragile our lives are, how delicate the human bond is...



The doctors, nurses and staff here are enormously caring. They work selflessly, toiling day and night, and treat everyone equally. They truly are the messengers of God and deserve our immense respect. I salute them! You know what: they came to know my hobby of reading and brought me wonderful books! So kind of them, isn't it? The doctors often said, "If we remain inside, Corona will always be outside and will soon be completely 'out' of our lives!" The other patients like me are too fighting hard; one of them is a retired teacher who got admitted a few days back. His unwavering spirit, admirable enthusiasm filled us with hope. He's battling bravely and will soon recover.

Despite being alone, I never felt lonely. I was given medicines on time, Yoga & breathing helped me stay upbeat, the food was hygienic...and speaking of food, I dearly miss homemade meals, Maa! I really miss you so much, Papa and Maa. Your care, your smiles, your laughter, your hugs, your pats, even your scolding and fussing!

Papa, you used to say: 'Parivaar Jaisa bhi ho, Parivaar hi mauke pe kaam aata hai'. You've always been right, Papa. There were days, when I was irresponsible, careless and used to argue with you and Maa over petty things. How selfish I was! But now, I've realized. I am so sorry, Papa & Maa. Just saying 'sorry' is not enough, I agree. Still, I promise you that I would strive to be a better child and a better person than ever before.

I can't forget those words both of you told me every day and every night: 'Corona is not stronger than our will to survive. You can defeat it! Yes, you can! You must! You will!' And I have...with your love and faith.

Eager to touch your feet and receive your blessings, Papa & Maa...

Coming home soon.

Your brave child...

Penned by

CA. Saurav Somani



Guwahati Branch Activities



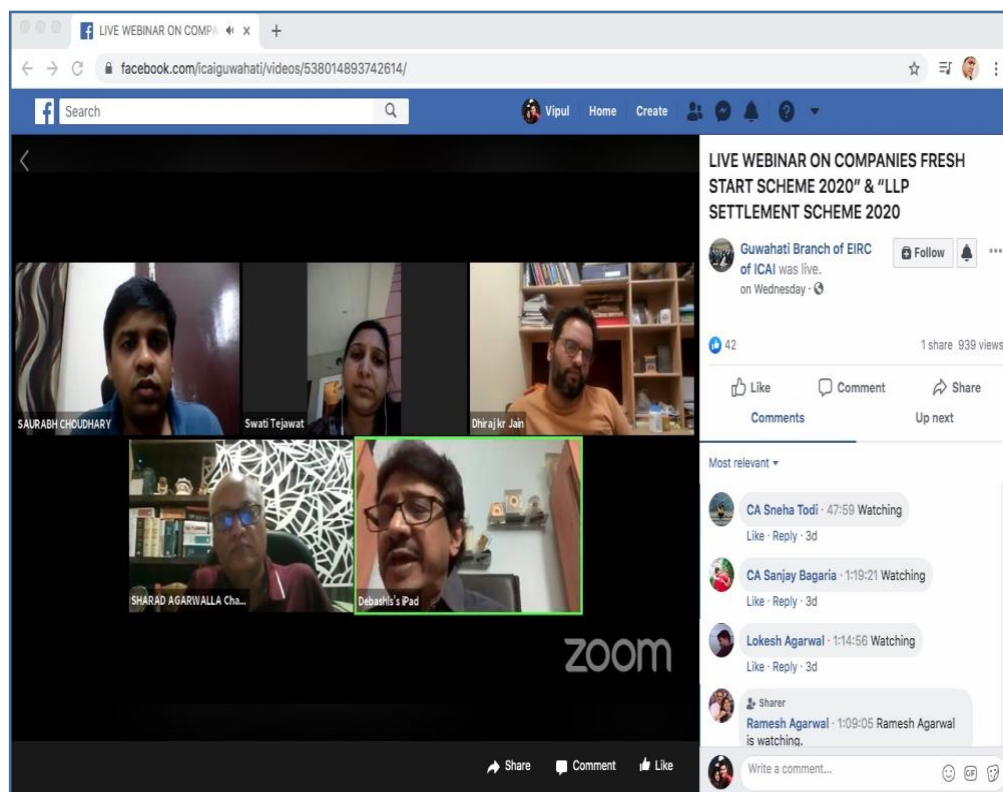
Guwahati Branch of EIRC of ICAI has come forward as a pioneer in ensuring that its Members and Students take full advantage of the Lockdown and are continuously upskilling themselves and further honing their existing skills. No Battle is won with a dull Blade and the Guwahati branch is pledged to ensure that our the strongest blade in any Professionals arsenal, his Mind, stays sharp!



Companies Fresh Start Scheme 2020 & LLP Settlement Scheme 2020

Guwahati Branch of EIRC of ICAI jointly with Dibrugarh and Tinsukia Branches of EIRC of ICAI conducted a webinar on Companies Fresh Start Scheme 2020" & "LLP Settlement Scheme 2020, with CA. (Dr.) Debashis Mitra.

#learn_from_the_best



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GSTR-1 DUE DATES-NN-33/2020 & Circular 136

3. GSTR-1 Waiver from Late Fee payable on delay in filing of return under Section 47 of CGST/SGST Act

S.No	Tax period	Waiver from Late Fees	Date on or before which return has to be filed to avail the waiver*
1.	Mar-20	Late Fee-Waived off	30.06.2020
2.	Apr-20	Late Fee-Waived off	30.06.2020
3.	May-20	Late Fee-Waived off	30.06.2020
4.	Quarter Ending 31.03.2020	Late Fee-Waived off	30.06.2020

* If return is filed after such specified dates - No waiver of late fee shall be available.

LIVE WEBINAR ON THE RECENT NOTIFICATION IN GST IN LIGHT OF COVID 19

Guwahati Branch of EIRC of ICAI Follow

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Recent Amendments in GST in Light of COVID 19

Guwahati Branch of EIRC of ICAI conducted a webinar on Recent Amendments in GST in Light of COVID 19 with CA. Manoj Nahata on 18th April

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GUWAHATI BRANCH OF EIRC OF ICAI

**LIVE WEBINAR
on
HOW TO EFFECTIVELY MANAGE
WORK FROM HOME USING TECHNOLOGY**

**SPEAKER:
CA. SANJIB SANGHI**

**THURSDAY, 16TH OF APRIL, 2020
Time: 5:00 PM to 6:30 PM**

How to effectively Manage WFH using Technology

Guwahati Branch of EIRC of ICAI conducted a webinar on How to effectively Manage WFH using Technology with CA. Sanjib Sanghi

#embrace_change

Ethical Hacking & Cyber Security

Guwahati Branch of EIRC of ICAI organised a live webinar on "Ethical Hacking & Cyber Security" with expert speaker Sachin Dedhia, Mumbai.

#digital_security



GUWAHATI BRANCH OF EIRC OF ICAI

LIVE WEBINAR ON ETHICAL HACKING & CYBER SECURITY

hotstuff

It's Phishing Season!

While the world goes digital, there is data to be compromised. Connect with Sachin Dedhia, an ethical Hacker & Cyber Crime Investigator, As he unfolds dark secrets on cyber fraud and how to stay safe while being online.

Webinar Focus.

- The world of Hacking
- What should your WFH policy Be
- How do you safeguard your devices to WFH
- Phishing Markers
- Safety on using online wallets
- Busting fake News and Links
- The big questionto zoom or not to zoom and how to Zoom.

Sachin Dedhia
(CISA, CEH, CEI, ISO 27001 LA)
is an independent Cyber Crime Investigator & also a Certified Ethical Hacker (EC-Council, USA).
He is also a Certified International trainer in the field of Cyber Security, Ethical Hacking, Cyber Crime Investigations & Digital forensics.
Since many years he is working as an Independent Cyber Crime Investigator and also as a IT security expert for various MNCs, SMEs, Government Departments, Corporate & individuals.

**TUESDAY, 21ST OF APRIL, 2020
Time: 5:00 PM to 7:00 PM**

Upcoming Events

Bank Audit in CBS Environment

Guwahati Branch of EIRC of ICAI is conducting a webinar on Bank Audit in CBS Environment with CA. Abhijit Kelkar, RCM < WIRC on 4th May

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GUWAHATI BRANCH OF EIRC OF
The Institute of Chartered Accountants of India



CA ABHIJIT KELKAR
RCM, WIRC

WEBINAR
BANK AUDIT IN CBS ENVIRONMENT
4TH MAY, 2020 FROM 5.30 PM TO 7.30 PM

Facebook Live:
<https://www.facebook.com/icaiguwahati>

Zoom Meeting ID: 84524892277
Pwd: icaighy

CA Sharad Agarwalla
Chairman

CA Gaurab Garodia
Secretary

CA Saurabh Choudhary
CPE Chairman



GUWAHATI BRANCH OF EIRC OF ICAI
Jointly With



DIBRUGARH BRANCH OF
EIRC OF ICAI

TINSUKIA BRANCH OF
EIRC OF ICAI

Two Days Live Webinar on

EXCEL IN EXCEL TOOLS, TIPS AND TRICKS OF EXCEL

SPEAKER: CA. ANKIT JALLAN

01st May, 2020 and 3rd May, 2020
Time: 11:00 AM to 1:00 PM



Facebook Live:
<https://www.facebook.com/icaiguwahati>

Zoom Meeting :
ID: 836 3674 7760, Pwd: icaighy

Excel in Excel

Guwahati Branch of EIRC of ICAI in association with Dibrugarh and Tinsukia Branches of EIRC of ICAI is conducting a 2 days Live webinar on Excel in Excel – Tools, Tips and Tricks in Excel along with CA. Ankit Jallan

#work_Smart

More Events and Learnings planned for Members and Students. Please stay tuned and follow us on our Website, Social Media Page and Mobile App for seamless information. More details on "[Keep in Touch](#)" page!



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Guwahati Branch Of EIRC Of ICAI– 2020-21



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