TAX GURJARI

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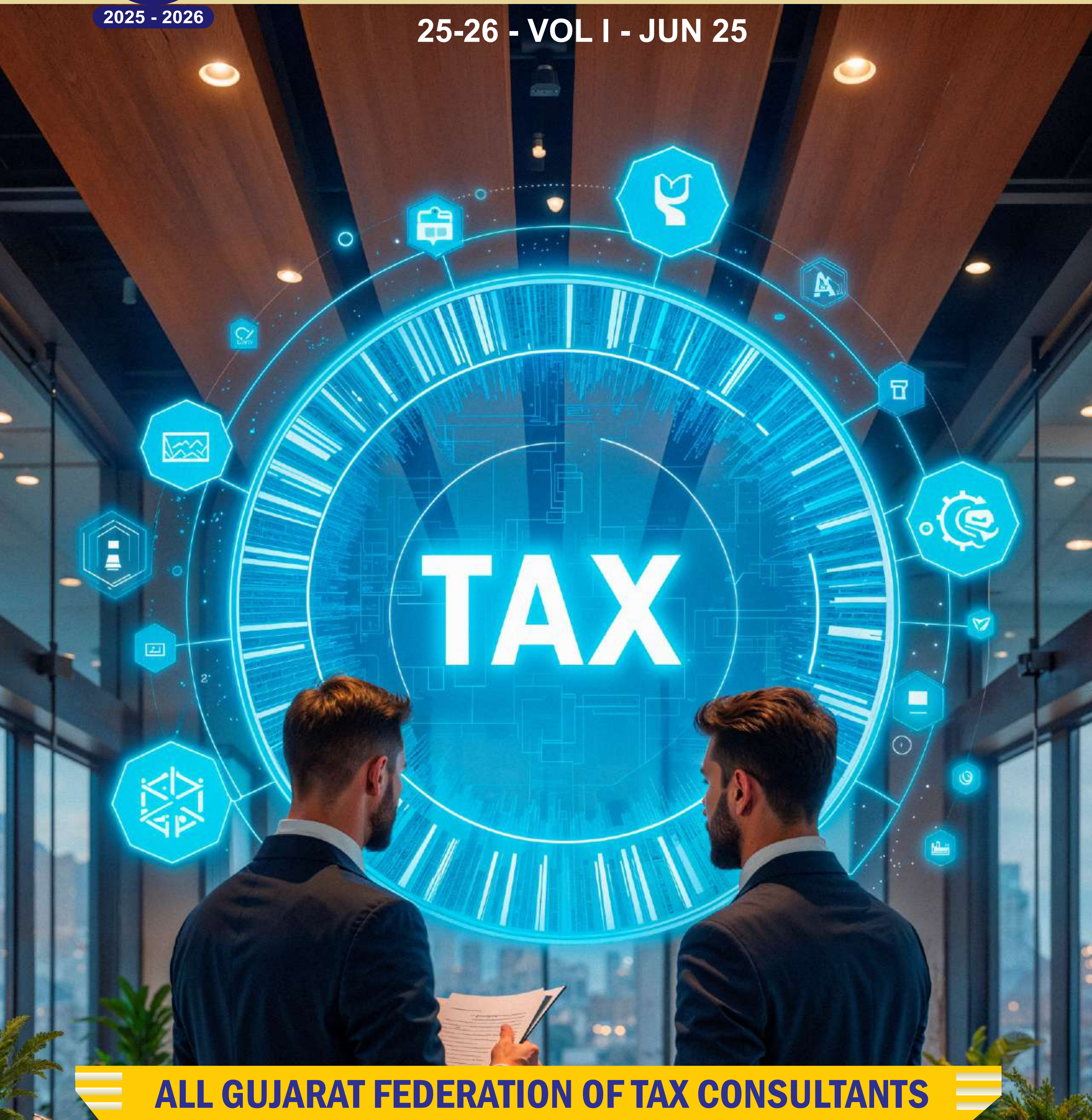

ALL GUJARAT FEDERATION OF TAX CONSULTANTS

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CHAIRMAN'S MESSAGE

CA (Dr.)
VISHVES A. SHAH

Dear Readers,

It gives me great pleasure to present to you the first edition of "Tax Gurjari" for the activity year 2025-26, published by the All Gujarat Federation of Tax Consultants. As the Chairman of this publication, I feel honoured and grateful for the opportunity to serve our community through this platform.

First and foremost, I would like to express my sincere thanks to my dear friend and President, Adv. Ashutosh Thakkar. His trust and support have been invaluable in allowing me to take on this responsibility. I am deeply thankful to him for giving me the chance to contribute to our profession and help spread knowledge among our members. His vision and leadership continue to inspire us all.

I also want to extend my heartfelt gratitude to all the contributors who have generously shared their expertise by providing insightful articles for this edition. Their hard work and dedication have enriched Tax Gurjari with a wide range of topics that cover Direct Taxes, Indirect Taxes, and Allied Laws. Each article is designed to offer practical information and guidance that will be useful to tax professionals in their daily work.

In addition, I would like to specially thank the entire Tax Gurjari committee. Their commitment and teamwork have been remarkable, especially considering the short time frame in which this edition was prepared. The committee members worked tirelessly behind the scenes to ensure that the publication was completed on schedule and maintained a high standard of quality. Their dedication deserves our deepest appreciation.

In today's world, tax laws and rules are frequently changing. It is very important for tax professionals to keep themselves updated with the latest developments. Staying informed helps us provide the best advice to our clients and supports businesses in managing their taxes correctly. Our role goes beyond just compliance; we are advisors and partners to those we serve. By continuously learning and sharing knowledge, we strengthen our profession and build trust with the business community.

I encourage all readers to fully utilize this publication. Take time to read the articles carefully, discuss the ideas with your colleagues, and apply the knowledge in your professional practice. Let us also use Tax Gurjari as a platform to connect, share experiences, and grow together as a community of tax consultants.

Once again, I thank everyone who contributed to this edition, the committee members for their dedication, and all our readers for their continued support. Together, let us move forward with enthusiasm and a commitment to learning and service.

With warm regards,
CA (Dr.) Vishves A. Shah
Chairman, Tax Gurjari Committee
All Gujarat Federation of Tax Consultants

PRESIDENT'S MESSAGE

ADV.
ASHUTOSH THAKKAR

Dear Members and Readers,

It is with immense pride and pleasure that I present to you the **First Volume** of our tax magazine **TAX GURJARI** for the activity year 2025-2026, a dedicated platform to explore and engage with the ever-evolving landscape of Income Tax, Goods and Services Tax (GST), and Allied Laws.

This first volume marks not just the beginning of a publication for the activity year, but the launch of a vision — a forum where knowledge meets insight, where legal interpretation meets practical application, and where professionals, scholars, and students alike can benefit from well-curated, thought-provoking content.

The world of taxation is dynamic, nuanced and crucial to the foundation of our economy. With increasing complexities in tax compliance, policy shifts, and judicial developments, it is essential for professionals to stay abreast of current issues and interpretations. This magazine aims to serve exactly that purpose — to inform, enlighten, and inspire.

I extend my heartfelt **gratitude to all the esteemed contributors and writers** whose efforts have brought this edition to life. Their articles not only reflect academic depth but also offer real-world relevance and actionable insight. Each contribution is a testament to their dedication, scholarship, and passion for the subject. I am particularly proud of the diversity in topics — from recent judgments and policy amendments to compliance tips and analytical perspectives — making this edition a rich and comprehensive read.

I also want to acknowledge the editorial team and all those who worked tirelessly behind the scenes to ensure the successful launch of this journal. Your commitment and enthusiasm have laid a strong foundation for what promises to be a valuable recurring publication.

As we turn this new page, I invite **you, the readers,** to become an active part of this journey. **Your feedback is invaluable** — it will guide us to improve, innovate, and include topics that matter to you. I also **encourage you to contribute articles, case notes, practical guides, or opinion pieces** for future editions. Let this be a community-driven initiative, where voices from all corners of the tax fraternity are heard and celebrated. You can connect with us on **info@agftc.in**

Warm regards,
Adv Ashutosh Thakkar
President
All Gujarat Federation of Tax Consultants

SECRETARY'S MESSAGE

CA PARTH DOSHI

Respected Members of August institution AGFTC

I feel very emotional and content the way President shown his trust on me and I got a chance to serve this prestigious federation from the one of the key post. Tax Professionals fraternity is recognised as one of the most respected fraternity in the society. People look at us with respect and shower their trust on us. Trust comes from the guiding light we provide to them and we obtain this guiding light from the knowledge we gather through knowledge inputs shared by our federation in various ways.

AGFTC's this year object is knowledge enhancement, inclusive outreach and membership growth. As a tax professional it is our utmost duty to stay updated in this fast changing knowledge world and federation will provide all the opportunities to our members to attend Mofussil programs, Webinars, Tax conclave or any other knowledge enhancement initiatives.

TAX GURJARI is one of the novel concepts of providing knowledge to the tax professionals initiated earlier in the federation. This year we will incorporate various articles on recent updates in Tax Laws & Allied Laws which is directly or indirectly affect to Members & Tax professionals. We also request our members to contribute us your insightful, thought provoking and practical articles. To contribute your article you can email us at info@agftc.in This initiative will definitely bring a chance to know young tax professionals and their wisdom.

I am highly obliged and thankful to all the experts who have contributed their articles in the first edition of Tax Gurjari for the year 2025-2026.

I am very much confident that articles shared in tax gurjari will surely help you to get an edge in knowledge addition and perform your professional practice in a best way.

Happy Reading!!!
CA Parth Doshi
Hon. Secretary
All Gujarat Federation of Tax Consultants

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GOODS AND SERVICE TAX

1. Can GST be levied on discount offered by Manufacturer, treating it as additional consideration flowing to the assessee against outward supply?

- The assessee was engaged in retail sale of mobile phones. The Manufacturer had passed on certain post-sale discount to the assessee The Proper Officer demanded tax on the said amount of post-sale volume discounts holding that, discount on the value of supply can be allowed only in the cases specified in section 15(3)(a) and (b) of the CGST Act.
- According to the Proper Officer such discount was to be construed as subsidy u/s. 15(2)(e) of the Act.
- The Hon'ble Madras High Court in Supreme Paradise v. ACST, [2024] 159 taxmann .com 143 held that:
- Section 15 of the Act prescribes a mechanism for "valuation". The value of supply of goods or services or both shall be the transaction value i.e. the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related, and the price is the sole consideration for the supply.
- Thus, the transactional value can only be the value on which GST is leviable, if the parties are unrelated.
- Where, the manufacturer offers discounts to his dealer, such discount cannot form part of the "transaction value" of the assessee (dealer) on further supply to his customer.
- Section 15(2)(e) of the Act will come into play only when a part of the consideration payable for the supply is subsidised by a 3rd party other than the Central Government or the State Government.
- The subsidy will get embedded into the "transaction value" only if the subsidy is disguised as a discount.
- A discount linked to the subsidy alone can form part of the "transaction value". A discount by itself will not qualify as subsidy.
- There is no scope for confusing the discount offered to the assessee and the discounted price at which the assessee effects further sale to its customers. They are two independent transactions and there is no scope for intermingling them for demanding tax from the assessee. Resultantly, the order was quashed.

2. Taxpayer cannot be called upon to reverse ITC without resorting to any action against the defaulting supplier

- The Proper Officer had passed an Order raising demand alleging that as GST was not paid and nil returns were filed by the seller, the ITC availed by the taxpayer was rendered ineligible being contrary to the law.
- On Writ, the Hon'ble Calcutta High Court in Laxmi Traders v. ACST, [2024] 159 taxmann.com 172 held that:
- The invoices with the taxpayer indicate that for every transaction during the year with the particular seller, the taxpayer had duly paid the IGST thereon to the seller through banking channels.
- The non-compliance of law by the seller in not depositing the tax to the Govt. treasury could not directly saddle the purchaser with the proceedings under the Act.
- It was not proper on the part of the GST authorities to arbitrarily direct reversal of ITC availed of by the taxpayer without resorting to any action against the defaulting supplier.
- Resultantly, the Order was set aside Unless exceptional case could be shown by the authorities that the supplier was either missing or the business of the supplier had been closed and the supplier did not have assets to remit the amount of impugned IGST, the purchaser could not be saddled with the burden to reverse the ITC along with interest which the purchaser (taxpayer) had rightfully availed.

- In this context, as held in Suncraft Energy (P.) Ltd. v. Assistant Commissioner, State Tax [2023] 153 taxmann.com 81 (Calcutta) before the buyer is proceeded against for reversal of ITC on account of failure on the part of the supplier in payment of tax, the supplier should be proceeded against first. Only in exceptional cases, as clarified in the Press Release issued by the Central Board of Indirect Taxes and Customs, the authority could proceed against the buyer.

3. Can Goods-in-transit be detained alleging under-valuation?

- The goods of the taxpayer during its transit were intercepted; on physical verification they were seized, and proceedings under section 129 of the CGST Act were initiated alleging under-valuation of the goods. Undisputedly, the goods were accompanied with valid invoice and e-way bill.
- On Writ, the Hon'ble Allahabad High Court in A.N. Enterprises v. Additional Commissioner, Writ Petition No.366/2021, Judgement dated 19.11.2024 has held that:
- It was an undisputed fact that the goods in question were accompanied with all the relevant documents i.e. e-way bill, GR, tax invoice etc. Admittedly, there was no difference in HSN code and quantity as well as the tax leviable on the goods in question.
- The only ground for detention was that on physical verification, according to the GST authorities, the goods were under-valued.
- Under valuation is not a valid ground for detention of goods in transit as the squad officer was not competent in law to determine the valuation of goods in transit.
- Goods cannot be so detained only on the grounds of undervaluation at the whims and fancies of the GST authorities.
- In the event of alleged under valuation, the appropriate course of action was initiation of proceedings under sections 73 or 74 of the Act as per the procedure laid down therein, and resorting to the valuation provisions contained in the Act in the course of such proceedings.
- Accordingly held that, imposition of penalty under section 129 on the speculation that the goods are undervalued was unsustainable-in-law.

4. Rectification of Incorrect tax paid in GST due to classification errors

- Section 77(1) of the CGST Act reads as under :

  "77 (1) A registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.
- Section 77 seeks to provide relief to the taxpayer who has incorrectly paid IGST, which later on turns out to be an intra-state supply wherein CGST and SGST was required to be paid. The section in effect provides a shield to the taxpayers, who have mistakenly classified their transactions leading to payment of tax under the incorrect head viz ., CGST, SGST or IGST.
- In such situations by taking recourse to section 77, the taxpayer can save himself from the consequent interest and penalties. A parallel provision also exists in section 19 of the IGST Act.
- Section 77 read-with Rule 89 and Circular No. 162/18/2021 envisages 2 steps for rectification :

  i. Make the correct payment of Tax;

  ii. Apply for the Refund of Tax incorrectly paid earlier.
- Rule 89(1A) of the CGST Rules, lays down a time limit of 2 years for claiming Refund from the date of correct payment of tax .
- In terms of section 77(2), no interest shall be payable in respect of rectification covered by section 77 of the Act.
- However, it must be noted that, Refund under section 77 of the CGST Act/section 19 of the IGST Act would not be available, if the taxpayer has made tax adjustment through issuance of credit note under section 34 of the CGST Act in respect of the said transaction(s).

5. GST credit ledger cannot be blocked negatively invoking Rule 86A

- Recently, the Hon'ble Gujarat High Court, in PMW Metal Alloys Pvt. Ltd. v. UOI, Civil Application No. 5541/2024, Judgement dated 20.09.2024, has ruled that:
- GST Electronic credit ledger cannot be blocked without sufficient balance.
- In terms of Rule 86A of the CGST Rules, the Commissioner or any officer authorized by him not below the rank of Asst. Commissioner, having reasons to believe that credit of input tax available in the Electronic Credit Ledger has been fraudulently availed or is ineligible after reasons to be recorded in writing, is authorized not to allow the debit of an amount equivalent to such credit in Electronic Ledger for discharge of any liability under section 49 of the CGST Act or for claim of any refund of any unutilized amount.
- There is no power under the provisions of the CGST Act to negatively block any ITC which is to be availed in future.
- As held in Samay Alloys India Pvt. Ltd. v. State of Gujarat (2022) 91 GST 338 (Gujarat) :
- For invoking Rule 86A(1), the condition precedent is that ITC should be available in the electronic credit ledger before the power is invoked by the authority.
- The powers can be exercised if the following cumulative conditions are satisfied:
  - i) Credit of input tax should be available in the electronic credit ledger;
  - ii) The Commissioner or an officer authorized by him should have reason to believe that such credit has been fraudulently availed or is ineligible;
  - iii) The reason to believe are to be recorded in writing.
- In case the conditions prescribed for the invocation of Rule 86A are not fulfilled, the officer cannot invoke the rule, and in such scenario, the consequences provided in the rule becomes ex facie inapplicable.
- One of the primary conditions in order to invoke Rule 86A is that, the Credit of input tax should be available in the electronic credit ledger. Further, such credit should be claimed to have been (supported by reason to believe recorded in writing) fraudulently availed.
- Accordingly, in case where (i) Credit of input tax is not available in the electronic credit ledger or (ii) such credit has already been utilized; the powers conferred under Rule 86A cannot be invoked.
- In cases where credit is fraudulently availed and utilized, appropriate proceedings under section 73 or section 74 can be initiated for recovery thereof.
- Secondly, Rule 86A is not the rule which provides for debarring the registered person from using the facility of making payment through the electronic credit ledger. In case the intention was to disallow future debits or credit in an electronic credit ledger, the text of the rule would have been entirely different.
- Once the input tax credit is claimed in electronic credit ledger, the credit becomes part of one fungible pool and the credit cannot be separately identified. Having regard to the same, the rule provides for restriction of an equivalent amount and not the credit itself.
- However, the rule pre-supposes existence of such credit in the electronic credit ledger.
- The power to restrict debit from the electronic credit ledger is extremely harsh in nature.
- Rule 86A is invoked at a stage which is anterior to the finalization of an assessment or the raising of a demand. Accordingly, it should be governed strictly by specific statutory language which conditions the exercise of the power.
- If no input tax credit was available in the ledger, the blocking of electronic credit ledger under Rule 86A and insertion of negative balance in the ledger would be wholly without jurisdiction and illegal.

6. Test to determine what is 'Immovable Property' in the context of ITC

- The issue before the Hon'ble High Court was whether Telecom Towers constitute 'immovable property' thereby attracting disallowance of ITC under section 17(5)(d) of the CGST Act?
- The Hon'ble Delhi Court in Bhartl Airtel v. Commissioner, CGST, WP No.13211,14710 and 16477/2024, Judgement dated 12.12.2024 has held that:

- Relying on judgement of Hon'ble Supreme Court in Bharti Airtel Ltd v. Commissioner of Central Excise 2024 SCC OnLine SC 3374, the tests to constitute 'immovable property' can be summarised as under :
- Nature of annexation: This test ascertains how firmly a property is attached to the earth. If the property is so attached that it cannot be removed or relocated without causing damage to it, it is an indication that it is immovable.
- Object of annexation: If the attachment is for the permanent beneficial enjoyment of the land, the property is to be classified as Immovable. Conversely, if the attachment is merely to facilitate the use of the item itself, it is to be treated as movable, even if the attachment is to an immovable property.
- Intendment of the parties: The intention behind the attachment, whether express or implied, can be determinate of the nature of the property. If the parties intend that the property in issue is for permanent addition to the immovable property, it will be treated as immovable. If the attachment is not meant to be permanent, it indicates that it is movable.
- Functionality Test: If the article is fixed to the ground to enhance the operational efficacy of the article and for making it stable and wobble free, it is an indication that such fix at one is for the benefit of the article, such the property is movable.
- Permanency Test : If the property can be dismantled and relocated without any damage, the attachment cannot be said to be permanent but is temporary and it can be considered to be movable.
- Marketability Test: If the property, even if attached to the earth or to an immovable property, can be removed and sold in the market, it can be said to be movable.
- As regards determination of "attached to the earth" to make it an immovable property it is necessary for the property to possess any of the three attributes as specified under section 3 of the Transfer of Property of Act, viz.,
  - rooted in the earth, as in the case of trees and shrubs;
  - imbedded in the earth as in the case of walls or buildings; or attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.
- In case of mobile towers, since the antennas are used for receiving and sending radio signals, these need to be attached at a certain height, and these are required to be stable and wobble-free. It was not in dispute that the mobile tower is attached and fastened to the earth or building to provide stability to the same and to make antennas unshakable due to wind, rain or any other external force(s).
- The tower which is affixed to the earth and thus appears to be immovable, can be dismantled from the existing site and reassembled without causing any change in it's character. It can be moved to any other place and also sold in the market. These attributes negate the permanency test, which is a characteristic of immovable property. The tower when fixed to the earth or the building or the civil foundation by nuts and bolts does not get assimilated with the earth or building permanently.
- Thus, applying the functionality test, it can be stated that the attachment of tower to the earth/building is not for the benefit of the land or the building but for better functioning of the antenna which is fixed on the tower. Thus, based on functionality test it can be said that tower is a movable property.
- Applying the tests of permanency, intendment, functionality and marketability it is quite clearly evident that these items are not immovable but movable within the meaning of section 3 of the Transfer of Property Act, read with section 3(36) of the General Clause Act.
- Thus, mobile towers and pre-fabricated buildings (PFBs) are "goods" and not immovable property.
- Thus, telecommunication towers would not qualify as immovable property as they neither qualify test of permanency nor can they be said to be attached to earth.
- Further, even the exclusion of telecommunication towers from the scope of the phrase "plant and machinery" in explanation to section 17(5) of the Act would not lead to it being held that they constitute articles which are immovable. As they need to first qualify as 'immovable property' as a pre-condition to fall within the ambit of clause (d) of section 17(5).
- Resultantly held that, telecommunication towers would not fall within the ambit of section 17(5)(d) of the Act and the denial of ITC was unsustainable.

Note: Though the judgement is rendered in the context of telecommunication towers, the principles laid down therein would apply in determination of the character of all other structures/things fastened and/or attached to the earth including those like pre-fabricated buildings which are most common in Industrial areas now-a-days.

7. Whether documents can be seized from the premises of the Assessee not named in search warrant under the CGST Act?

- The scope of powers of inspection, Search and Seizure, and the limits placed thereon, are laid down in section 67 of the CGST Act, 2017.
- The authorisation for search is issued in Form INS-01 by an Officer not below the rank of Joint Commissioner.
- Powers of the authorised officers conducting the inspection, search and seizure are circumscribed by the authorisation in Form INS-01.
- The authorised officers do not have the jurisdiction and authority to travel beyond the places specified in Form INS-01 to conduct inspection and/or search proceedings.
- Whatsoever compelling reasons of evasion of tax emerge, the authorities cannot conduct inspection at unauthorized places travelling beyond the authorization mentioned in Form INS-01.
- In the event of an unauthorized action, all the proceedings become tainted and are rendered illegal for abuse of authority granted.
- Further, section 67(2) of the Act not only confers authority to seize but also specifies the limits to the exercise of this authority.
- Form INS-02 lays down the 'identity' of seized articles.
- In this context, it must be noted that :
  - Goods liable to confiscation which are secreted and detected during the search; and
  - Documents, books or things which are secreted and detected during search can only be seized .
- What is not 'secreted', cannot be 'seized'.

  As held by the Hon'ble Delhi High Court in R. J. Trading Co. v. Commissioner of CGST [2021] 128 taxmann.com 344, the order of seizure of documents not satisfying the prerequisite in section 67(2) of the Act was flawed and unsustainable in law.

INCOME TAX

1. Section 69A cannot be applied to an inward remittance by an NR from Income earned outside India.

- The assessee and his wife, were non-residents for more than 10 years, working in the UAE. During the year under assessment, there was a credit of Rs. 25 lakhs to the assessee's NRO A/c. The AO treated the same as unexplained money invoking section 69A of the Income Tax Act, which was confirmed by CIT(A).
- On appeal, the Hon'ble Ahmedabad ITAT in Pallav Rajnikant Pancholi v. ITO, TA No. 489/Ahd/2024, Order dated 08.10.2024 held that :
- The assessee had sufficiently evidenced on record with the inward remittance certificate, bank statements and the overseas employer's certificate to the effect that the remittance was in respect of performance bonus earned while the assessee was in employment outside India.
- The authenticity of the documents was not disputed by the AO .
- Section 69A can only apply to unexplained money for which no satisfactory explanation is provided. Thus, the action of the AO invoking section 69A was unfounded and incorrect.
- It was pertinent to note that, section 69A of the Act does not require the assessee to prove the source of the source of the funds, particularly when the immediate source the remittance from the employer - was well-documented and legitimate.

- Further, in terms of section 5(2) of the Act, the global income of a non-resident is taxable in India only if it is received or deemed to be received in India, or if it accrues or arises in India. In the present case, the performance incentive was earned and accrued outside India and remitted to India through legitimate banking channels. This income does not fall within the purview of section 5 and is not taxable in India. Therefore, the addition made by the AO was contrary to the provisions of the law on this count as well.
- Resultantly held that, additions made invoking section 69A of the Act were unsustainable-in-law.

2. Recording of entries in books of accounts is not conclusive to determine income under the Income Tax Act, 1961

- During the assessment proceedings, the AO noticed that, the assessee had claimed excise duty refund as capital receipt. According to the AO, in view of the amendments by Finance Act, 2015 and as per the amended section 2(24)(xviii), any assistance in the form of subsidy, grant etc. provided by the Government or any authority is to be considered as income. Therefore, the excise duty refund also fell in this category and hence show cause notice was issued as to why the said amount should not be taxed as income.
- The assessee submitted that during the year under consideration the firm did not receive any excise refund as such; it was actually an amount exempted from payment under the Excise law, and thus the notional amount was booked just for accounting purposes and quantification.
- However, the AO dissatisfied with the submissions made additions, which were confirmed by the CIT(A) in first appeal. However, the ITAT reversing the order of CIT(A) deleted the additions.
- On further appeal, the Hon'ble Jammu & Kashmir High Court in PCIT v. Gravita Metal, Income Tax Appeal No. 01/2024, Judgement dated 31.10.2024 held that:
- It is a settled law that, income tax cannot be levied on hypothetical income and only real income can be taxed .
- Therefore, recording of entries in the books of accounts is not conclusive to determine the 'income' under the provisions of law. Whether an amount is to be considered as income or not is to be determined on the basis of the Income Tax law and not on the basis of the entries made in the books of accounts.
- Further, as per the Black's law dictionary the term "exemption" means freedom from a general duty or service; immunity from a general burden, tax, or charge, immunity from service of process or from certain legal obligations. Whereas 'subsidy' means a grant of money made by government in aid of the promotion of any enterprise, work, or improvement in which the Government desires to participate, because such purpose is likely to be of benefit to the public.
- Thus, held that exemption from excise duty does not fall in the definition of income as envisaged under section 2(24)(xviii) of the Act, and the same was not an income but a capital receipt not liable to tax.

3. Is Direct Nexus between Income & Expenditure necessary for deduction?

Facts :

- The assessee had claimed certain interest expenditure on bank loans against the dividend income under the head Income from Other Sources (IOS).
- The AO disallowed the deduction holding that, the main purpose of incurring the interest expenditure was not earning income from dividends. According to the AO, in order to claim deduction under section 57(iii) of the Act there should be a direct nexus between the expenditure incurred with the income earned.
- The CIT(A) confirmed the disallowance observing that, the assessee could not establish the linkage between the income earned and expenses incurred. The CIT(A) further held that, in the acquisition of shares for capital gains, the dividend income is incidental and not a major factor and thus, the sole purpose of borrowing by the assessee @12% per annum cannot be for the purpose of earning dividend income. Accordingly held that, unless the interest expenditure was incurred solely for the purposes of earning dividend income, no deduction was permissible under section 57 of the Act.
- On appeal, the Hon'ble Mumbai ITAT, in Ashwin S. Mehta v. ACIT, ITA No.295/ MUM/2024, Order dated 13.12. 2024, held that:

- The Hon'ble Supreme Court in Seth R. Dalmia VS CIT, (1977) 110 ITR 644 (SC) agreed with the view taken by the Hon'ble Jurisdictional Bombay High Court in CIT vs. H. H. Maharani Vijaykuverba Saheb of Morvi (1975) 100 ITR 67, wherein it was held that, the connection between the expenditure and the earning of income need not be direct, and even an indirect connection could prove the nexus between the expenditure incurred and the income.
- The contention of the Revenue that, the decision in Seth R. Dalmia (supra) was in the context of Indian Income Tax Act, 1922 was negated observing that, the plain language of the provisions of section 12(2) of the 1922 Act dealing with the provisions of "Other Sources" and the provisions of section 57(iii) of the 1961 Act, indicates that both the provisions were pari-materia in as much as, under both provisions deduction of expenditure is allowable only when the same is expended/incurred wholly and exclusively for the purpose of making or earning such income and such expenditure is not in the nature of capital expenditure.
- In CIT vs. Smt. Sushila Devi Khadarla, 319 ITR 413 (Bombay), in a similar factual matrix, i.e. wherein the AO denied the deduction claimed under section 57(iii) of the Act, on the basis that the expenditure was not incurred wholly for the purpose of earning income, as the taxpayer was engaged in selling shares in the stock market and the dividend income had accrued as a by-product, the Hon'ble Bombay High Court placing reliance on judgement in Seth R. Dalmia (supra), held that the finance charges and interest were allowable as deduction under section 57(iii) of the Act against the dividend income shown as OS by the assessee.
- Thus, the Hon'ble ITAT held that, the assessee is entitled to claim a deduction of interest expenditure under section 57 of the Act since receipt of dividend is merely due to the shareholding of the assessee, and the interest expenditure has nexus with the income under the head OS including dividend income even though not direct.

4. Meaning of the term "initiation" of penalty proceedings explained

- During the course of assessment proceedings, the AO noticed that there was a default in deduction of TDS. The assessment proceedings were completed on 26 .03.2014. The AO made reference to the JCIT (TDS) for imposition of penalty on 25.09.2014.
- The JCIT did not take any steps for issuance of show cause notice for a considerable period of time after receipt of the reference. The show cause notice was issued only on 04.08.2015 after almost one year of receipt of the reference from the AO. The JCIT ultimately imposed penalty u/s. 271C vide Penalty Order dated 25.02.2016.
- The Assessee challenged the Penalty order on the ground that, in terms of section 275(1)(c) of the Act, no order imposing penalty can be passed after expiry of six months from the end of the month in which the action for imposition of penalty was 'initiated' and thus the Penalty Order dated 25.02.2016 was barred by limitation.
- Thus, a legal issue arose as to what was the date of "initiation" of the penalty proceedings viz., date of reference by AO i.e. 25 .09 .2014 or the date of issue of show cause notice by JCIT i.e. 04.08.2015?
- The Hon'ble Delhi High Court in CIT v. Turner General Entertainment Networks India (P) Ltd, IT Appeal No. 547/2024, Judgement dated 06.11.2024, referring to the judgment in Pr. CIT v. JKD Capital & Finlease Ltd. 378 ITR 614 held as under:
- In terms of section 275 (1)(c) of the Act, no order of penalty can be passed :
  - i) after the expiry of the financial year in which the quantum proceedings were completed; or
  - ii) beyond six months after the month in which action for imposition of penalty was initiated, whichever period expires later.
- It is a settled principle of law that, the initiation of penalty proceedings cannot be delayed in an arbitrary manner.
- The expression "initiated" is not defined under the Act and must be construed in its normal sense.
- The word 'Initiated' is a past tense of the word 'initiate'.
- The Shorter Oxford English Dictionary defines the word 'initiate' as "to begin, commence, enter upon, to introduce, set going, originate".
- The Words and Phrases (Permanent Edition) defines 'initiate' to mean "an introductory step or action, a first move; beginning; start, and to initiate as meaning - to commence".

- Black's Law Dictionary (6th Edn.) defines "initiate" to mean "commence; start; originate; introduce; inchoate".
- The interpretation of the word "Initiate" by referring to the dictionary meaning was supported by the judgement of the Hon'ble Supreme Court in Om Prakash Jaiswal v. D. K. Mittal (2000) 3 SCC 171.
- The expression 'action for imposition of penalty is initiated' must thus, clearly refer to the date on which the first introductory step for such action is taken, it must necessarily mean the start of such action. It must mean the commencement of action for imposition of penalty.
- The reference by the AO to the JCIT (TDS) thus clearly marked the first step for initiation of action for imposition of penalty.
- The SCN issued subsequently was to just to provide the assessee an opportunity to show cause why penalty not be imposed . It cannot be said that it was the first step for initiation of action. Thus, the initiation of penalty proceedings must be considered as on date on which a reference was made by the AO.
- Resultantly held that, the penalty proceedings had been initiated at the earliest i.e. on 25 .09.2014 and the penalty order passed by the JCIT was barred by limitation and consequently quashed.

<u>OTHERS</u>

1. Principles governing the maintainability of Writ Petitions in tax matters

- The Hon'ble Bombay High Court in Oberoi Constructions Ltd. v. UOI, Writ Petition No. 33260/2023, Judgement dated 11.11.2024 after exhaustively analyzing various judicial precedents on the issue, has summarized and laid down the principles governing the maintainability of Writ Petitions challenging the show cause notices and Orders in tax matters:
- The rule of exhaustion of alternate remedies is not any constitutional or statutory rule but only a self-imposed restriction (by the High Courts).
- The circumstances in which the appeals require some percentage of the tax demanded to be pre-deposited do not render the appellate remedies any less efficacious. Therefore, the petitioners cannot urge a deviation from the general rule of exhaustion of alternate remedies based on such contention. The practice of instituting petitions bypassing the statutory remedies only to avoid a pre deposit cannot be encouraged.
- Where arguable issues are involved requiring examination of factual aspects cannot be addressed in extraordinary and summary jurisdiction under Article 226 of the Constitution.
- As propounded by the Hon'ble Supreme Court in Whirlpool Corporation v. Registrar of Trade Marks (1998) 8 SCC 1, Writ Petitions may be entertained against show cause notices only where the Petitioners seek enforcement of any fundamental rights; or where there is a violation of principles of natural justice; or where the order or proceedings are wholly without jurisdiction; or where the vires of the Act is itself challenged.
- The usual adjudicatory process, where a matter can be effectively adjudicated upon, cannot be scuttled by rushing to the writ court and securing stays on the adjudicatory process.
- As held by the Hon'ble Supreme Court in Special Director v. Mohd. Ghulam Ghouse (2004) 3 SCC 440), unless the High Court is satisfied that the show-cause notice was totally non-est in the eyes of the law for absolute want of jurisdiction of the authority even to investigate the facts, writ petitions should not be entertained for mere asking and as a matter of routine. The Writ Petitioner should invariably be directed to respond to the show cause notice and raise all defenses and contentions highlighted in the writ petition. Whether the show cause notice was founded on any legal premises is a jurisdictional issue the recipient can urge before the authority issuing the notice.
- In the State of Maharashtra and Others v. Greatship (India) Limited 2022 Livelaw (SC) 784, the Hon'ble Supreme Court after referring to its earlier precedents on the subject, dismissing the Writ challenging the assessment order under the MVAT Act, 2002 and CST Act, 1956, held that Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only where statutory remedies are entirely ill-suited to meet the demands of extraordinary situations, for instance, where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up, and the prevention of public injury and the v indication of public just ice require it that recourse

may be had to Article 226 of the Constitution. Even in such matter the Court must have good and sufficient reason to bypass the alternative remedy provided by statute.

- As observed by the Constitutional Bench of the Hon'bie Supreme Court in Thansingh Nathmal v. Superintendent of Taxes, AIR 1964 SC 1419, the jurisdiction of the High Court under Article 226 though couched in wide terms, the exercise of the jurisdiction is discretionary. It is not to be exercised merely because it is lawful to do so. Resorting to this jurisdiction is not intended as an alternative remedy for relief, which may be obtained in a suit or other mode prescribed by statute.
- The High Court cannot generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce, which is claimed in the writ. Writ jurisdiction is meant to be exercised with extreme caution, particularly when statutory remedies are sought to be bypassed.

FILING ITR IN OLD REGIME?
DON'T MISS THESE 7 BIG CHANGES FOR AY 2025–26

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The Income Tax Department's latest updates to ITR-1 and ITR-4 for Assessment Year 2025–26 have sent a clear message— **claiming deductions and exemptions under the old tax regime will no longer be a matter of mere declaration. Substantiation is now non-negotiable.**

While the new tax regime, introduced under Section 115BAC, promises lower tax rates with no exemptions, many taxpayers—especially salaried individuals and middle-class professionals—have preferred to stick with the old regime to benefit from deductions like HRA, 80C, 80D, and home loan interest. However, the government appears to be tightening the compliance screws on this choice.

Here's how opting for the old regime just got more demanding:

1. **Detailed Disclosure for House Rent Allowance (HRA) Exemption**

   To claim exemption under Section 10(13A) for House Rent Allowance (HRA), taxpayers are now required to furnish a broader set of data points. The revised ITR forms seek the following information:

   - Place of Work
   - Actual HRA Received
   - Rent Paid
   - Basic Salary and Dearness Allowance (DA)
   - 50% or 40% of Basic + DA depending on whether the location is metro or non-metro

   This granular disclosure is aimed at facilitating accurate computation of HRA exemption and reducing instances of arbitrary claims.

2. **Section 80C Deductions: Mandatory Supporting Details**

   For claiming deductions under Section 80C—such as investments in Public Provident Fund (PPF), life insurance premiums, and other eligible instruments—taxpayers must now disclose:

   - Document or Receipt Number
   - PPF Account Number
   - Life Insurance Policy Number

   These additional requirements aim to strengthen audit trails and mitigate the risk of unverifiable or fictitious claims.

3. **Section 80D: Health Insurance Information**

   In a move to streamline health insurance-related deductions, the new ITR forms now require those claiming benefits under Section 80D to report:

   - **Name of the Insurance Company**
   - **Policy or Document Number**

   Such disclosures will assist in verifying the legitimacy of the deduction and ensure that the policy is held in the name of the assessee or eligible family members.

4. **Section 80E: Interest on Education Loans**

   Taxpayers availing of deductions for interest payments on education loans under Section 80E must now furnish the following details:

- **Name of the Lending Institution**
- **Bank Name**
- **Loan Account Number**
- **Date of Loan Sanction**
- **Total Loan Amount Sanctioned**
- **Outstanding Loan Balance as on 31st March**

This shift underscores the government's intent to better monitor educational financing and curb misuse of the provision.

5. **Sections 80EE and 80EEA: Interest on Residential Home Loans**

In line with the broader push for accountability, deductions claimed under Section 80EE or 80EEA for interest on housing loans now require similar disclosures, including:

- **Name of the Lender**
- **Bank Name**
- **Loan Account Number**
- **Date of Loan Sanction**
- **Sanctioned Loan Amount**
- **Outstanding Loan Amount as on 31st March**

This data will allow for better compliance monitoring in relation to first-time homebuyer incentives.

6. **Section 80EEB: Interest on Electric Vehicle Loans**

To claim deductions under Section 80EEB—pertaining to interest on loans taken for the purchase of electric vehicles—taxpayers must disclose:

- **Name of the Lending Institution**
- **Bank Name**
- **Loan Account Number**
- **Date of Loan Sanction**
- **Sanctioned Loan Amount**
- **Loan Outstanding as on 31st March**

This detailed reporting requirement aligns with the government's emphasis on sustainable mobility and targeted subsidies.

7. **Section 80DDB: Treatment for Specified Diseases**

Deductions under Section 80DDB, which relate to the treatment of specified diseases for self or dependents, now necessitate an explicit mention of:

- **Name of the Specified Disease**

This clarification aims to bring consistency in claims and facilitate quicker assessments, especially where certificates from prescribed authorities are submitted.

FINAL THOUGHTS

Navigating the Trade-Off Between Savings and Simplicity

While the old tax regime still offers a range of deductions and exemptions, the government has clearly shifted the onus onto the taxpayer to prove every claim with precision. These enhanced disclosure requirements mark a significant shift from convenience to compliance. Choosing between regimes must now consider not only financial benefit but also the practical effort of compliance. As tax compliance evolves, so must our approach to choosing what works not just financially—but practically.

ANNUAL RETURN ON FOREIGN LIABILITIES AND ASSETS (FLA): REPORTING INDIA'S FOREIGN FINANCIAL EXPOSURE

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INTRODUCTION

In an increasingly interconnected global economy, the need for accurate and comprehensive data on cross-border investments has never been more vital. To this end, the Reserve Bank of India (RBI), under the aegis of the International Monetary Fund (IMF), conducts two key surveys: the Co-ordinated Direct Investment Survey (CDIS) and the Co-ordinated Portfolio Investment Survey (CPIS).

These surveys are implemented through the Annual Return on Foreign Liabilities and Assets (FLA), which captures the foreign financial assets and liabilities position of Indian resident entities as of end-March each year. The data gathered not only contributes to global databases maintained by the IMF but also forms a crucial input for the compilation of India's Balance of Payments (BoP) and International Investment Position (IIP). Importantly, the RBI assures that all entity-specific information submitted remains confidential, with only aggregate-level data being disseminated.

APPLICABILITY

The obligation to file the FLA Return applies to all Indian entities—including companies, Limited Liability Partnerships (LLPs), SEBI-registered Alternative Investment Funds (AIFs), partnership firms, and Public-Private Partnerships (PPPs)—that have either received Foreign Direct Investment (FDI) or made Overseas Direct Investments (ODI) during the financial year. Indian reportable entities are required to file the FLA return even if there has been no fresh inflow or outflow of foreign investment, as long as there is an outstanding balance of direct investment. However, Resident Individuals who have made overseas investments are currently excluded from the purview of this reporting mandate.

FINANCIAL INFORMATION FOR FILING THE FLA RETURN

Entities may submit the FLA Return based on audited or unaudited/provisional financial statements available as on due date (July 15). If audited financials are finalized after submission, the return can be revised with prior approval from the Reserve Bank of India (RBI). It is important to note that all financial data must reflect the entity's position as on March 31, irrespective of the financial year followed by the Indian entity or its foreign counterpart. Furthermore, entities are not required to attach any supporting documents, such as the balance sheet or profit and loss account, while submitting the FLA Return.

STRUCTURE OF THE FLA RETURN

The FLA Return comprises five key sections, designed to capture detailed data on a reporting entity's cross-border investment profile:

Section I – Identification Particulars

This section collects the basic information of the entity, including its name, CIN/LLPIN, PAN, business classification, industry code, listing status, and contact details of the authorized representative.

Section II – Financial Details

Here, entities report core financial data such as equity capital, reserves and surplus, revenues, imports and exports, net worth, total assets, liabilities, and profitability for the year ending March 31.

Section III – Foreign Liabilities

This section covers FDI, portfolio investments, and other forms of foreign capital such as External Commercial Borrowings (ECBs). It reflects the scale and structure of foreign investment in Indian entities.

Section IV – Foreign Assets

Entities must report details of ODI including equity and debt investments abroad, loans, guarantees, and any income earned from these foreign assets. This section also requires disclosure of the country of investment and purpose.

Section V – Variation Report

Any variation between the current year's reporting and figures previously submitted are required to be explained in this section.

UNDERSTANDING KEY REPORTING CONCEPTS

To ensure accurate and compliant submission of the FLA Return, it is essential to understand the classification of various types of cross-border financial instruments. The following concepts are critical for determining the reporting structure:

- **Equity Capital and Other Capital**

  Foreign direct investment (FDI) in a reportable entity is broadly classified into Equity Capital and Other Capital.

  - *Equity Capital* includes ordinary shares and other participating instruments held by non-resident investors.
  - *Other Capital* encompasses all outstanding liabilities or claims between the reporting entity and its direct foreign investor. This includes borrowings, trade credits, investment in non-participating instruments, share application money, convertible instruments (CCD, CCP) and other debt-like arrangements.

- **Other Investments**

  This category includes financial transactions and balances with unrelated foreign parties, such as Loans and borrowings, Trade credits, Currency and deposit accounts, other receivables and payables. Domestic assets and liabilities are not required to be reported.

SCENARIOS WHERE ENTITIES ARE EXEMPT FROM FILING THE FLA RETURN

While the FLA return is mandatory for Indian entities with foreign investment exposure, there are specific scenarios where filing is not required, which are outlined below:

- **Share Application Money Only**

  An entity that has outstanding share application money as of March 31 but has no foreign liabilities or assets related to direct investment is not required to file the FLA Return. The absence of an actual foreign investment position negates the need for reporting.

- **Non-Repatriable Investments**

  Shares issued to non-residents on a non-repatriation basis are not considered foreign direct investment (FDI) under FEMA regulations. Consequently, entities with only such investments are outside the scope of FLA reporting.

- **Transfer or Buyback of Shares**

  If a reporting entity has had foreign direct investment or made overseas investment in the past, but all such investments were either transferred or fully bought back during the reporting year—resulting in no outstanding foreign investment as of March 31—the entity is exempt from filing the FLA Return for that financial year.

VALUATION GUIDELINES

Accurate valuation of equity capital is a critical component of the FLA Return. The methodology differs based on whether the reporting entity is listed or unlisted. For unlisted companies, the market value of equity capital is determined using the book value method. The net worth of the company is calculated as follows:

Net Worth = Paid-up Equity Capital + Participating Preference Shares + Reserves & Surplus – Accumulated Losses

In case of entities listed on a recognized stock exchange, the market value of equity capital is based on the closing share price as on March 31 of the relevant financial year. This reflects the fair market value of the company's equity at the reporting date.

FILING DEADLINE

The FLA Return must be submitted annually by **July 15.** While late submissions are permitted with prior approval from the RBI, failure to file within the stipulated timeline constitutes a contravention of the Foreign Exchange Management Act (FEMA) which can be cured by paying Late Submission Fee **(LSF)** for delay in reporting of FLA returns amounting to INR7,500 per return. In today's dynamic international market, maintaining a disciplined approach to FEMA compliance is essential to avoid financial penalties and reputational damage of Indian businesses.

SUBMISSION PROCESS

Entities required to file the return must do so through the RBI's web-based portal at https://flair.rbi.org.in On successful submission, a system-generated acknowledgment and a link to download the FLA Form on the screen is provided immediately.

CONCLUSION

The Annual FLA Return is not merely a regulatory formality but a critical instrument in assessing India's international investment dynamics. With its role in shaping national economic indicators and informing global economic governance, compliance with this requirement is not just obligatory—it is a responsibility. Timely and accurate submission of the FLA Return by eligible entities ensures transparency and enhances India's stature in the global financial ecosystem.

APPLICABILITY OF SECTION 75(12) FOR PAYMENT OF INTEREST ON SELF-ASSESSMENT TAX AND RECOVERY OF SAME BY VIRTUE OF SECTION 79 UNDER GST LAW

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BACKGROUND

Recently the SGST and CGSTdepartments have issued intimation for payment of interest on Self-Assessment tax paid which states that as per section 50 interest payable on such self-assessment tax paid belatedly and by virtue of section 75clause (12) such demand of interest issued. If such interest not paid will be recovered as per Section 79 of CGST Act2017 which prescribes various modes of recovery of tax and if the tax payer do not pay interest FORM GST DRC-01D i.e.Intimation for amount recoverable under Section 79 has been issued and after that if no payment done the SCN will be given in as per presided rules and it will be followed by FORM GST DRC-07 demand order.The crucial thing is to know what Supreme Court has explained the distinction between the term 'tax', 'interest' and 'penalty'? Here it is relevant to discuss first.

Principle laid down by Supreme Court on collection of interest in the Pratibha Processors case:

The Supreme Court in the matter of **Prathiba Processors v Union of India 1996 (88) ELT 12 (SC)**, has explained the distinction between the term 'tax', 'interest' and 'penalty' that are used in fiscal statutes. The relevant extract of the judgment is reproduced hereunder:

13. In fiscal Statues, the import of the words - "tax", "interest", "penalty", etc. are well known. They are different concepts. Tax is the amount payable as a result of the charging provision. It is compulsory exaction of money by a public authority for public purposes, the payment of which is enforced by law. Penalty is ordinarily levied on an assessee for some contumacious conduct or for a deliberate violation of the provisions of the particular statute. **Interest is compensatory in character and is imposed on an assessee who has withheld payment of any tax as and when it is due and payable. The levy of interest is geared to actual amount of tax withheld and the extent of the delay in paying the tax on the due date.** Essentially, it is compensatory and different from penalty - which is penal in character.

Relevant Statutory Provisions

Let's understand Interest liability on self-assessment Tax Paid with Statutory provision and illustration for understanding how interest liability on self-assessment tax paid accrues, in which situation under Section 75(12) recovery of tax or interest can be initiated.

Interest Liability in GST on Self-Assessment Tax paid

Section 50 clause (1) provides for levy of interest on delayed payment of tax as far as GST Law is concerned.Interest rate is 18% w.e.f. the 1st day of July 2017 which is notified by Notification No. 13/2017-Central Tax [G.S.R. 661 (E)] dated 30-3-2022. Let's go through once the Section 50 of CGST and SGST Act, 2017.

Statutory Provisions for Interest and Recovery thereof

Section of CGST Act	Description	Amendment
Section 50	Levy of Interest on Delayed Payment of Tax	
Section 75(12)	Recovery of Self Assessed Tax	*Explanation* to section 75(12) of CGST Act substituted vide Finance Act, 2021 w.e.f. 1-1-2022.

CGST Rules	Description	Relevant Forms	Amendment
Rule 142	Notice and order for demand of amounts payable under the Act.	FORM GST DRC-07	Substituted for "tax, interest and penalty payable by the person chargeable with tax" by the Central Goods and Services Tax (Tenth Amendment) Rules, 2021, w.e.f. 1-1-2022.
Rule 142B	Intimation of certain amounts liable to be recovered under section 79 of the Act	FORM GST DRC-01D, FORM GST PMT-01	*Rule Inserted by the Central Goods and Services Tax (Second Amendment) Rules, 2023, w.e.f. 4-8-2023.*

Section 50 Interest on delayed payment of tax

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent, as may be notified by the Government on the recommendations of the Council:

***Provided** that the **interest on tax payable** in respect of supplies made during a tax period and **declared in the return for the said period furnished after the due date in accordance with the provisions of section 39,** except where such return is furnished after commencement of any proceedings under section 73 or section 74 [or section 74A] in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.*

Concept of Self-Assessment Tax Paid

Every GST registered taxpayer pays tax while filling their GSTR 3B in cash, if liability of pay tax in cash arises after set off done of available ITC. This payment of tax is considered as Self-Assessment tax payment.

Illustration

Let's understand the situation of Self-Assessment tax payment for the April 2025 of a GST Registered Taxpayer while filling GST Return of GSTR 3B:

April 2025 details of GST registered tax payer	CGST	SGST
Opening Balance in Electronic Credit Ledger	20,000	20,000
Output Tax Liability	1,70,000	1,70,000
Input Tax Credit Availed in GST	1,00,000	1,00,000
Self-Assessment Tax Liability in Cash	50,000	50,000

Explaination:- Tax of CGST 50,000 and SGST 50,000 paid in cash after due date 20th May 2025 on 25th May 2025. Here, interest liability arises on 18% p.a. for this delayed payment of tax of CGST 50,000 and SGST 50,000

Recovery proceedings without issue of show cause notice if Self Assessed Tax and Interest thereon not paid

Section 75 General provisions relating to determination of tax

(12) Notwithstanding anything contained in section 73 or section 74 or section 74A, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79 of CGST Act - section 75(12) of CGST Act – the words “or section 74A” inserted by Finance (No. 2) Act, 2024 w.e.f. 1-11-2024.

For the purposes of section 75(12), the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37 of CGST Act [details of outward supplies in form GSTR-1], but not included in the return furnished under section 39 of CGST Act [GSTR-3B]- explanation to section 75(12) of CGST Act substituted vide Finance Act, 2021 w.e.f. 1-1-2022.

Comments on Section 75(12)

Sometimes, the supplier uploads details of tax invoices and debit notes in his GSTR-1 (so that recipient can avail ITC) but does not include that turnover in his GSTR-3B return. Hence, explanation to section 75(12) of CGST Act inserted vide Section 114 of Finance Act, 2021 w.e.f. 1-1-2022, provides that 'self-assessed tax' includes tax payable on details of outward supply furnished in GSTR-1 but not included in GSTR-3B and recovery under section 79 of CGST Act can commence, without issuing notice under section 73 or 74 of CGST Act. Thus, if outward invoices are uploaded by taxable person in his GSTR-1 but liability is not shown in his GSTR-3B return, recovery of tax can be done without issuing demand notice.

GSTR-1 is filed under section 37(1) of CGST Act. It only shows supplies made. It is not declaration of tax payable. The tax payable is shown in GSTR-3B return filed under section 39(1) of CGST Act, which shows net tax liability after adjustment of Input Tax Credit. Tax payable is assessed only when GSTR-3B is filed as it shows ITC available and net tax payable. However, in view of explanation added, the tax shown as per GSTR-1 will be treated as tax payable, after deducting ITC that might have been shown in GSTR-3B return.

Situation	Adjudication Required?	Why?
Tax Declared in GSTR 1 and not Declared in GSTR 3B	Not Required	Treated as Self Assessed (Sec. 75(12))
Tax Declared in GSTR 1 and Declared in GSTR 3B	Not Required	Treated as Self Assessed (Sec. 75(12))
Wrongly availed ITC covered by Section 50(3)	Required U/s 73 or 74	Not Covered in Sec 75(12)

Power of Recovery to AC/DC

'Proper Officer' to initiate and conduct recovery proceedings for the purpose of CGST is Deputy Commissioner/Assistant Commissioner of Central Tax. All powers of recovery under rules 143 to 156 of CGST Rules have been delegated to Deputy/Assistant Commissioner of Central Tax, vide CBE&C circular No. 3/3/2017-GST dated 5-7-2017. [State Government will prescribe 'proper officer' for purpose of SGST in the respective State].

Recovery of tax dues can be made from establishment with separate registration with same PAN

A taxable person can have different GST Registrations in different States or even in same State with same PAN. They are defined as 'distinct persons' under section 25(4) and section 25(5) of CGST Act.

However, recovery of dues can be made under section 79 of CGST Act from such distinct persons also - explanation to section 79 of CGST Act inserted vide CGST (Amendment) Act, 2018 w.e.f. 1-2-2019.

Modes of Recovery

As per section 79(1) of CGST Act, the proper officer (AC/DC) shall proceed to recover the amount. As per my personal view, the prescribed alternative modes so it is discretionary powers lies with the Proper Officer.

Recovery can be done by one or more of the modes mentioned below:

SR. No.	Various Modes of Recovery	Section of CGST Act, 2017
1.	Deduction from amount payable to Assessee	Section 79(1)(a)
2.	Sale of Goods belonging to taxable person	Section79(1)(b)
3.	Recovery by Garnishee order (i.e. recovery from a third party)	Section 79(1)(c)
4.	Distraining and detaining movable or immovable property belonging to assessee	Section 79(1)(d)

1. **Deducting amount payable from any money owing to the Taxpayer**

   The proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer - section 79(1)(a) of CGST Act.

   Such order should be issued inForm GST DRC-09 - Rule 143(1) of CGST Rules, 2017.

2. **Detaining and selling goods under control of department**

   The proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer - section 79(1)(b) of CGST Act.

   Inventory and estimated market value shall be made. Goods should be sold by auction or e-auction for which notice should be in form GST REG-10 - rule 144 of CGST Rules, 2017.

   Notice of auction should be minimum 15 days, except in case of perishable goods - rule 144(3) of CGST Rules, 2017.

   Pre-bid deposit should be obtained. Notice to successful bidder shall be in form GST DRC-11. On payment of amount, certificate shall be issued to successful bidder I form GST DRC-12 - rule 144(5) of CGST Rules, 2017. If bids are not received, re-auction can be made.

   If defaulter pays the amount with expenses, process of auction should be cancelled - rule 144(6) of CGST Rules, 2017.

3. **Recovery from Third Person i.e. Garnishee proceedings**

   The proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government either forthwith upon the money becoming due or being held, or at or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount- section 79(1)(c)(i) of CGST Act.

   Clause (c) of sub-section 1 of Section 79 deals with provisions relating to recovery of amount due to the government by a garnishee order, as under:

   (i) Issue of Notice (Section 79(1)(c)(i))

   The notice of such recovery shall be in form GST DRC-13. When third person pays the amount, the certificate shall be in form GST DRC-14 - rule 145 of CGST Rules, 2017.

(ii) Third party is bound to make payment (Section 79(1)(c) (ii))

Every person to whom the notice is issued under this section shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(iii) Failure to make payment – Consequences of (Section 79(1) (c) (iii))

In case the person to whom a notice under this section has been issued, fails to make the payment in pursuance thereof to the Central or a State Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow.

The officer issuing notice (garnishee notice) may, at any time or from time to time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice- section 79(1)(c)(iv) of CGST Act.

Any person making any payment in compliance with a garnishee notice issued under section 79(1)(i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the appropriate Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt- section 79(1)(v) of CGST Act.

Any person discharging any liability to the person in default after service on him of the notice issued under section 79(1)(i) shall be personally liable to the Central or a State Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less - section 79(1)(vi) of CGST Act.

Where a person on whom a notice is served under section 79(1)(i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the credit of the appropriate Government any such money or part thereof- section 79(1)(vii) of CGST Act.

4. Distrain and sale any property belonging to the person

The proper officer may, on an authorisation by the competent authority and in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person- section 79(1)(d)of CGST Act.

JUDICIAL TRENDS

1. LC Infra Projects (P.) Ltd. v. Union of India W.P. No. 28876 of 2019 High Court of Karnataka Dt. JULY 22, 2019

Section 75(12) of the Act empowers the authorities to proceed with recovery without issuing Show Cause Notice is only misconceived. The said Section is applicable only to the self-assessment made by the assessee and not to quantification or determination made by the Authority.

2. **Mahadeo Constuction Co. Versus Union of India W.P. (T) No. 3517 of 2019, High Court of Jharkhand decided on 21-4-2020**

Facts

One of the issue for adjudication in the instant writ application is as to whether garnishee proceedings under Section 79 of the CGST Act can be initiated for recovery of interest without adjudicating the liability of interest, when the same is admittedly disputed by the assessee. Section 79 of the CGST Act empowers the authorities to initiate garnishee proceedings for recovery of tax where "any amount payable by a person to the Government under any of the provisions of the Act and Rules made thereunder is not paid". Since in the preceding paragraphs of our Judgment, we have already held that though the liability of interest is automatic, but the same is required to be adjudicated in the event an assessee disputes the computation or very leviability of interest, by initiation of adjudication proceedings under Section 73 or 74 of the CGST Act, in our opinion, till such adjudication is completed by the Proper Officer, the amount of interest cannot be termed as an amount payable under the Act or the Rules. Thus, without initiation of any adjudication proceedings, no recovery proceeding under Section 79 of the Act can be initiated for recovery of the interest amount.

Verdict

The letter directing to pay Interest issued by Superintendent is hereby quashed/set aside and, further, garnishee notice issued under Section 79 of the CGST Act to the Banker of the petitioner for recovery of interest amount of Rs. 19,59,721/- is also, hereby, quashed/set aside.

It shall be open for the respondent Authorities to initiate appropriate adjudication proceeding either under Section 73 or 74 of the CGST Act (as the case may be) against the petitioner-assessee and determine the liability of interest, if any, in accordance with law after giving due opportunity of hearing to the petitioner.

3. **Kuddus Ali, Proprietor of M/s. Kuddus Ali Construction V/s The Assistant Commissioner of Central Tax,Maldah CGST&Cx Division, SiliguriCommissionerate. &Ors WPA 6004 OF 2025 Calcutta High Court Dated Date: 28/04/2025**

Issue involved

The Calcutta High Court quashed the recovery order passed under Section 75(12) of the GST Act where the tax liability was already declared in GSTR-3B. The Court held that Section 75(12) applies only where outward supply details in GSTR-1 are not included in GSTR-3B. Since the tax was already included and explained in response to ASMT-10, the department is directed to treat the prior order as a show cause and proceed afresh.

Facts

The petitioner challenged a recovery order under Section 75(12) for alleged tax shortfall of Rs.8,09,248 identified via ASMT-10. The department, without issuing a proper SCN or invoking Sections 73/74, directly passed an order and raised demand through DRC-07.

Held

The Court held that once the self-assessed tax is already declared in GSTR-3B, Section 75(12) is not applicable. The department's action bypassed due process, and the order is thus invalidated. Respondents are directed to follow prescribed procedure.

The Court held that Section 75(12) cannot be used to bypass adjudication when tax is already declared in GSTR-3B. The explanation to Section 75(12) restricts its applicability to mismatches between GSTR-1 and GSTR-3B. Since no SCN under Section 73/74 was issued, the recovery was illegal.The order and consequential DRC-07 demand are quashed, with liberty to proceed lawfully.

CONCLUSION

If we took conservative view, one can say interest can be recovered by issuing advisory for ensuring payment of interest under section 50(1) of the CGST/SGST Act, 2017 in respect of self-assessed tax paid after the due date of furnishing of returns, Form GST DRC-01D intimation for amount recoverable under section 79 and FORM GST DRC-07 summary demand order by proper officer and consequently, the recovery proceeding can be done by virtue of section 79. But if we observe the judicial trend one can take recourse of litigation after issuing FORM GST DRC-07 on grounds of violation of natural justice if any and taking ground that if tax is with GSTR 3B then Sec.75(12) not applicable by relying on above judgements.

I personally believe on this issue whether under Section 50(1) and Section 75(12) unpaid interest can be recovered for belated payment of tax in GSTR 3B filled can be given until and unless courts gives verdict on this issue. But it is quite clear that CGST and SGST both revenue departments are taking recovery action in this regard. Whether to pay interest or not decision is on taxpayer and the tax consultant and professionals who gives professional advice to their clients. If the taxpayer does not pay interest and in such a case by revenue, power of bank attachment is exercised by virtue of Section 79, the taxpayer will be in trouble. I personally believe that either taxpayer has to litigate by filling appeal against demand order issued in FORM DRC-07 or has to pay by filling DRC-03 before issuance of Form DRC-07.

GOODS RETURN IN THE TEXTILE INDUSTRY UNDER GST: CHALLENGES, ERRORS, AND COMPLIANCE

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The Indian textile industry, known for its diversity and scale, regularly deals with goods returns—a routine yet critical aspect of its supply chain operations. Whether it involves fashion retailers managing seasonal inventory or manufacturers addressing product defects/quality issues, the return of goods is integral to textile trade dynamics. However, under India's Goods and Services Tax (GST) regime, such returns introduce a layer of complexity that often leads to compliance pitfalls.

WHY RETURNS HAPPEN: TEXTILE CONTEXT

Goods returned in textiles can be attributed to several operational and market-driven factors:

a. End-of-Season Stock Surplus: Fashion trends change rapidly. Unsold garments or fabrics at the end of a season are often returned to manufacturers or wholesalers.

b. Defective Products: Quality issues such as fabric tears, dyeing inconsistencies, or stitching errors lead to product rejections.

c. Size and Fit Issues: Especially in apparel retail, end customers often return items due to size or style mismatches.

The frequency and scale of these returns necessitate precise compliance under GST laws to avoid fiscal mismatches or penalties.

COMMON GST ERRORS IN HANDLING GOODS RETURNS

Despite the frequent nature of returns, many textile businesses commit errors while accounting for them under GST. These typically arise due to misinterpretation of the law or procedural shortcuts. Below are the most prevalent issues:

1. Wrong Document Issuance: Debit Note vs. Credit Note

A widespread error is when the recipient issues a debit note with GST for returned goods. Under GST, only the supplier is authorized to issue a credit note reflecting the tax impact. A debit note by the recipient may be valid for internal accounting but cannot affect GST liability. Misuse of this document leads to non-compliance and potential audit queries.

Correct Practice: The supplier must issue a GST-compliant credit note, while the recipient may issue a non-GST financial debit note for internal reconciliation.

2. Misapplication of Tax Adjustments

Often, suppliers mistakenly increase Input Tax Credit (ITC) instead of reversing their output tax liability when goods are returned. Similarly, recipients may increase their output tax liability, treating the return like a fresh outward supply—when they should be reducing their ITC. Such mismatches result in incorrect GSTR filings and ITC ledger discrepancies.

Correct Practice: Suppliers must reverse output tax liability corresponding to the credit note. Recipients must reduce ITC proportionally. Both should ensure reflection in relevant GSTR-1 and GSTR-3B returns. In cases where a supplier issues a credit note, if the recipient does not provide any clarification regarding whether they have reversed the Input Tax Credit (ITC) on the reduced amount, there is currently no option available on the GST portal for either the supplier or the tax department to verify if the reversal has been completed. In order to address this issue, the tax department has issued a circular.

According to Circular 212/6/2024-GST, if a GST credit note is issued to a registered person, the supplier can obtain an undertaking from the recipient confirming the reversal of the proportionate amount of Input Tax Credit (ITC). However, if the amount of tax to be reversed exceeds 5,00,000, it is advisable for the supplier to obtain a certification from the Chartered Accountant (CA) or Cost and Management Accountant (CMA) of the recipient. The circular specifies that the certificate or undertaking from the CA/CMA or the recipient is considered as admissible evidence, and the tax authorities can request the registered person to provide these documents. If required, such a certificate/undertaking must also be produced for previous years.

3. **Issuance of GST Credit Notes Post Statutory Deadline**

According to GST rules, credit notes with tax adjustment must be issued by November 30 of the following financial year. Beyond this date, any such credit note cannot reduce the tax liability. Yet, textile suppliers frequently issue credit notes with GST after this deadline, expecting to adjust their liability—leading to rejections during audits or assessments.

Correct Practice: If the time limit has lapsed, businesses can issue a financial credit note without GST for accounting purposes only. This is not required to be disclosed in GSTR 1/3B.Further no tax reduction can be claimed under such circumstances.

CHALLENGES UNIQUE TO THE TEXTILE INDUSTRY

Unlike other sectors, the textile industry grapples with challenges that amplify the complexities around goods return under GST:

a. **High Volume, Low Value Transactions:** Frequent B2B exchanges with returns create reconciliation difficulties in GST returns. Every return needs a GST credit note, referencing the original tax invoice, GST rate, and HSN code. Hundreds of invoices may be issued per day. When returns happen (even partial returns), matching them accurately with the original tax invoices becomes administratively intense.

b. **Multiple Tax Rates:** Different fabrics, garments, and technical textiles attract varying GST rates, complicating reverse calculations during returns. When products are returned, the supplier must reverse the exact amount of GST originally paid. If there's a mismatch in classification or rate, the tax department can raise queries. Credit notes with GST effect must be rate-specific, any error leads to wrong ITC implications.

c. **Job Work Model:** Returns sometimes happen after processing by job workers, where tracking ownership and tax liability becomes complicated. If the processed goods are rejected or not conforming to specifications, they are returned to the principal.

d. **Valuation Disputes in Returns of Discounted or Promotional Goods:** Textile products are frequently sold during seasonal sales or promotions. When these goods are returned, determining the correct taxable value for issuing a credit note becomes tricky, especially if the discount was volume-based or post-sale or Goods were returned from consignment or agent stock.

e. **Returns from Unregistered Dealers or Consumers:** In the B2C space (e.g., fashion retail), a large portion of goods returns come from unregistered individuals. Under current GST provisions, the supplier cannot issue a credit note to an unregistered customer and claim ITC reversal or tax adjustment for it in a meaningful way through GSTR filings.

f. **Logistic Loopholes – E-way Bill and Transporter Issues -** GST mandates that any movement of goods, including returns, be supported by E-Way Bills (if applicable). However, many businesses don't generate E-Way Bills for returned goods. Transporters sometimes refuse to carry returned defective goods due to unclear tax documentation.

The return of goods, though commonplace in the textile industry, demands nuanced handling under the GST regime. Missteps ranging from document errors to timing issues can result in financial loss or compliance risk. With robust systems, timely training, and clear understanding of the GST law, businesses can not only ensure compliance but also streamline their operations.

GST ON BRANCH TRANSFERS IN THE TEXTILE INDUSTRY: ISSUES AND SOLUTIONS

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The implementation of GST in India has significantly impacted branch transfers within the textile industry, where the movement of goods between units with separate GSTINs (even under the same PAN) is considered a taxable supply. According to Para 2 of Schedule-I of the Central Goods and Services Tax (CGST) Act, 2017, supplies of goods or services or both between distinct persons, even without consideration, are treated as taxable supplies. This has led to several issues affecting textile businesses' operational efficiency and financial health.

<u>COMPARISON TO PRE-GST REGIME:</u> The treatment of branch transfers under GST marks a significant change from the pre-GST era. Under the Value Added Tax (VAT) regime, branch transfers could often occur against Form F without attracting tax. The GST regime has removed this concept, treating inter-state transfers between distinct persons as taxable supplies.

Branch transfers under GST are taxable in two specific scenarios:

1. *<u>Intrastate transfers:</u>* When an entity maintains multiple GST registrations within the same state, movements between these registered entities are taxable.
2. *<u>Interstate transfers:</u>* When goods move between branches located in different states (with different GSTINs but the same PAN), the transfers attract GST.

KEY ISSUES:

1. *<u>Working Capital Implications:</u>* Textile businesses, especially SMEs, face challenges with working capital due to the upfront payment of GST on stock transfers and the potential time lag in claiming the Input Tax Credit (ITC), as the availment for eligible credits is available however utilisation depends on the scenario for further output supply by the receiving unit. This can strain cash flow, particularly for businesses with long production cycles or seasonal sales.
2. *<u>Increased Operational Costs:</u>* Textile businesses with operations across multiple states or with separate GSTINs for different business verticals face increased operational costs due to the GST levied on each stock transfer. This is in addition to the increased documentation and administrative processes required for compliance.
3. *<u>Higher Compliance Burden:</u>* The need for separate GST registrations for different branches or business verticals necessitates the filing of multiple GST returns, increasing the compliance burden. Further more, the valuation of stock transfers without consideration requires strict adherence to complex GST valuation rules. It also includes E-way bill compliance where the goods are valued more than INR 50,000, and in case of inter state supplies, registration requirement would also arise under Section 24 of the GST Act.
4. *<u>Complexity in Valuation:</u>* Determining the taxable value of stock transfers between distinct persons, where no monetary transaction occurs, is complex and often subjective, where the input tax credit is ineligible and provision to Rule 28 is not applicable. The lack of clear guidelines can lead to inconsistencies and potential disputes with tax authorities. Applicability of the provision to the rules and which will override what is still the confusion. Rule 28 has three mechanisms in which valuation can be done. (Along with additional two in provision).

5. *Supply Chain Disruptions, including job work:* The tax on interstate stock transfers might incentivize textile businesses to consolidate operations within a single state to avoid this tax, potentially disrupting established supply chains and impacting regional economies. Textile businesses frequently send raw materials (fabrics, yarns) to job workers for processing within the state and outside. If processed goods are transferred between branches, GST may apply if they are not returned within the time limit prescribed.

6. *Partially Processed Goods:* Determination of the fact that at what stage the textile item transforms from fabric to apparel affects its classification under GST and creates confusion as to the nature of the product and its use. Alongside, as there are multiple rates for products which have different natures, for example, blended yarns containing both cotton and man-made fibres have challenges as to classification and rate.

PROPOSED SOLUTIONS AND RECOMMENDATIONS:

1. *Supply to Oneself:* A possible view that can be taken is that taxing transactions between different units of the same legal entity might be subject to judicial challenges, arguing that one cannot be taxed for transactions with oneself. This indicates a potential area of future legal interpretation and possible changes. However, this proposition is not at all suggestible as it too risky to take this view and disputable in the eyes of law.

2. *Job work transactions under GST:* Maintain proper documentation of job work challans to differentiate job work from taxable transfers. One can Utilize job work provisions under Section 143 of the CGST Act to avoid unnecessary GST liability, which gives a time limit to get back the goods from the job worker to own premises.

3. *Facilitate Faster ITC Refunds:* Streamline the process for Input Tax Credit refunds, especially for taxes paid on stock transfers, to ease the working capital strain on textile businesses. In case the assessee has the option to avail refunds under the inverted duty structure, he may avail so, basis the input-output ratio and avoid the accumulation of the credits.

4. *Industry-Specific Consultations:* The GST Council should conduct regular consultations with textile industry stakeholders to understand their specific challenges related to branch transfers and tailor regulations or provide necessary clarifications.

5. *Re-evaluate Stock Transfer Treatment for SMEs:* The government should consider exempting or simplifying the GST process for stock transfers between entities with the same PAN, which is under the same name and line of business, specifically for SMEs, to reduce their working capital burden. To overcome this, representations may be required to be done by Trade Associations, institutes and bodies involved in the process.

Addressing these issues through the proposed solutions can help streamline operations, reduce the compliance burden, and improve the financial viability of textile businesses in India under the GST regime.

POWER OF ATTORNEY (POA)

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WHAT IS POWER OF ATTORNEY?

1. It is legal authorization that gives a designated person the power to act on behalf of someone else.
2. A Power of Attorney (POA) is a legal document that authorizes someone (the agent) to act on behalf of another person (the principal) in specific matters. It grants the agent the authority to handle legal, financial, or health-related decisions, as defined in the POA. The scope of the agent's authority can vary, from broad powers to specific, limited ones.
3. In other words, it is a legal authorization that gives the agent or attorney-in-fact the authority to act on behalf of an individual referred to as the principal. The agent may be given broad or limited authority to make decisions about the principal's property, finances, investments, or medical care.
4. POAs can be financial or they can pertain to health care. Both provide the attorney-in-fact with general or limited powers.
5. If due to urgent business needs, travel plans etc., a person/s is/are not available to attend to his/their affairs viz. property related, legal issues, etc., he/they can authorise a confidant, to carry out activities, on his/their behalf. In such a case, a PoA is executed between the party/ies granting such power/s **('Grantor')** and the person authorised to carry out such activities **('Attorney' / 'Grantee').**

In nutshell :

- A power of attorney is a legal document that gives one person the power to act for another.
- The person who receives the authority is referred to as the agent or attorney-in-fact.
- The subject of the POA is called the principal.
- The agent can have (i) broad legal authority or (ii) limited authority to make decisions about the principal's property, finances, or medical care.
- A durable power of attorney continues to remain in effect if the principal becomes ill or disabled and cannot act personally.

PARTIES INVOLVED IN POWER OF ATTORNEY:

- **Principal:** The person granting the authority to the agent.
- **Agent (Attorney-in-Fact):** The person authorized to act on behalf of the principal.
- **Witness:** It is most desirable.

BROAD TYPES OF POA:

Sr. No.	Types	Particulars
1.	General PoA	It relates to several transactions and to do several acts and things.
2.	Specific PoA	It relates to a specific transaction. For example – to be present, admit, lodge a document and to admit execution thereof.
3.	Durable PoA	Continues to be valid even if the principal becomes incapacitated.

HOW TO CREATE AND USE A POA :

1. A PoA is a legal document that binds the agent or attorney-in-fact and the principal. It is used in the event of a principal's temporary or permanent illness or disability or when they cannot sign necessary documents. It is necessary that both the parties must sign the document and a third party is generally required to witness it.
2. Most PoA documents authorize the agent to represent the principal in all property and financial matters as long as the principal’s mental state of mind is good. The agreement automatically ends if the principal becomes incapable of making decisions. A durable power of attorney is a special type of POA that continues even after the principal becomes incapacitated.
3. Someone who wants the power of attorney to remain in effect after their health deteriorates should sign a durable power of attorney (DPOA). This remains in force even if the person they are representing becomes mentally or physically incapacitated. However, it ends with the death of the principal. The authority is also voided if the PoA is not designated as durable and the client becomes mentally incapacitated.
4. A power of attorney can end for several reasons, such as when the principal revokes the agreement or dies, when a court invalidates it, or when the agent can no longer carry out the responsibilities outlined in the agreement. In the case of a married couple, the authorization may be invalidated if the principal and the agent divorce.
5. There are many good reasons to make a durable power of attorney because it ensures that someone will look after your financial affairs if you become incapacitated. But signing a Power of attorney that grants broad authority to an agent is very much like signing a blank check.
6. An individual who's appointed as the agent in a power of attorney is not necessarily a stranger. The person could be a trusted family member, friend, or acquaintance.
7. The specific actions or matters the agent is allowed to handle, which can be broad or narrow.

FORMS OF POWER OF ATTORNEY:

1. General POA

This POA allows the agent to act on behalf of the principal in all matters as allowed by state law. The agent under such an agreement may be authorized to handle bank accounts, sign checks, sell property, manage assets, and file taxes for the principal.

2. Limited POA

A limited power of attorney gives the agent the power to act on behalf of the principal in specific matters or events.

It might explicitly state that the agent is only permitted to manage the principal's retirement accounts. This type of PoA may be in effect for a specific period. For instance, the authorization might be effective only for two years if the principal will be out of the country for that length of time.

3. Financial POA

A financial PoA allows an agent to manage the business and financial affairs of the principal, such as signing checks, filing tax returns, depositing Social Security checks, and managing investment accounts when and if the principal becomes unable to understand or make decisions.

The agent must carry out the principal’s wishes to the best of their ability, at least to the extent of what the agreement spells out as being the agent’s responsibility. A financial POA can give the agent a wide range of power over the principal's bank account, including the ability to make deposits and withdrawals, sign checks, and make or change beneficiary designations.

4. Health Care POA

The principal can sign a durable health care POA (HCPOA) if they want an agent to have the power to make health-related decisions for them. This document is also called a health care proxy. It outlines the principal’s consent to give the agent POA privileges in the event of an unfortunate medical condition. This POA kicks in when the principal can no longer make health-related decisions on their own.

5. **Springing POA**

The conditions for which a durable POA may become active are set up in a document called a "springing" power of attorney. A springing POA defines the kind of event or level of incapacitation that should occur before the DPOA springs into effect.

A power of attorney can remain dormant until a negative health occurrence activates it to a DPOA. A springing power of attorney should be very carefully worded to avoid any problems in identifying precisely when and if the triggering event has happened.

6. **Durable POA**

A durable POA (DPOA) remains in control of certain legal, property, or financial matters that are specifically spelled out in the agreement even if and when the principal becomes mentally incapacitated. A DPOA can pay medical bills on behalf of the principal but the durable agent can't make decisions related to the principal's health, such as taking them off life support.

IMPORTANT FACETS OF POA :

There is no standard POA form, although all states do accept some version of a durable power of attorney.

A few key powers cannot be delegated, including the right to make, amend, or revoke a will or contract a marriage in most states.

1. POAs must be in writing, signed, and witnessed, and may require notarization depending on the jurisdiction. Written clarity helps to avoid arguments and confusion later at a crucial time.
2. Decide what powers you want to grant and prepare a POA that's specific to that desire.
3. A POA can be as broad or as limited as the principal wishes but each of the powers granted must be clear even if the principal grants the agent a general POA. The principal can't grant sweeping, nonspecific authority such as, "I delegate all things having to do with my life."
4. A POA gets terminated if the principal becomes incapacitated. The only way an agent can keep their power if this happens is if the POA is written with an indication that it's durable.
5. Powers of attorney must be notarized.
6. It is crucial to choose an agent you trust, as they will be acting on your behalf and making decisions that affect your interests.

REVOCATION AND TERMINATION:

Power of attorney can be terminated if you expressly revoke it. It may also have a set termination date or duration of time for which it is in force. All powers of attorney cease if you die.

Generally, a PoA can be revoked under the following circumstances:

a. When the Grantor sends a notice to the Attorney of his intention to revoke the PoA;

b. When the purpose mentioned in the PoA is accomplished;

c. When either the Grantor or Attorney becomes of an unsound mind / dies or declared insolvent.

RISKS AND PROTECTIONS :

A POA involves some risk. It gives someone else a great deal of authority over your finances without regular oversight.

A POA can be complicated, so working with a lawyer could help protect you against potential abuses. Getting help from a lawyer to name an agent under a POA is relatively inexpensive.

POA abuse can take many forms:

- Your agent might pressure you for authority that you do not want to grant.
- Your agent may spend your money on themself rather than for your benefit.

- Your agent might do things you did not authorize them to do – for example, make gifts or change beneficiaries on insurance policies or retirement plans.

Protect against POA abuse by:

- Telling other friends, family members, and financial advisers about your POA so they can look out for you—and even spot a forged POA document.
- Only appointing someone you really trust and make sure they know your wishes and preferences. In your POA, you can require that your agent regularly report to another person on the financial transactions they make on your behalf.
- Remembering that POA designations are not written in stone – you can change them. If you decide that your agent is not the best person to handle your finances, you can revoke or cancel your POA.
- Being aware of someone who wants to help you out by handling your finances and be your new "best friend." If an offer of help seems too good to be true, it probably is.

CONCLUSION

In summary, a Power of Attorney is a powerful tool that must be created thoughtfully and responsibly. Choosing the right agent and understanding the scope of authority are crucial to its success.

GREEN IS THE NEW SMART
FROM BALANCE SHEETS TO BIOSPHERES: THE NEW MANDATE FOR FINANCE PROFESSIONALS

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"It's time for CAs to evolve: from being finance guardians to becoming guardians of the Earth too."

Finance professionals must expand their role from only managing company finances "balance sheets" to also protecting and thinking about the environment "biospheres".

We, the finance professionals, have **meaningful role** not just caring about profits of our clients, but also about the planet in which we live and enjoy our life.

As a finance professional, I've always believed that our role goes far beyond compliances. We are advisors, strategists, and now more than ever enablers of sustainability. Today, as we stand at the crossroads of artificial intelligence (AI) innovation and climate urgency, I see an exciting opportunity for our profession to lead from the front.

AI is transforming how businesses operate automating decisions, improving customer experience, and delivering operational efficiency. But behind its power lies a hidden cost—**"energy consumption".** Large AI models, especially those powering Chatbots, autonomous systems, and predictive analytics, demand massive computing power. And this power mostly comes from electricity, which, if sourced from fossil fuels, leaves a sizeable carbon footprint.

Being professional we who understand the language of numbers, we cannot ignore this reality. It is time we **recognize the energy-hungry nature of AI and advocate for its sustainable evolution**—powered by clean energy, backed by transparent carbon reporting, and driven by ESG (Environmental, Social and Governance) -aligned growth strategies.

THE HIDDEN EMISSIONS BEHIND AI

Let me share a startling fact—training just one large language model can emit over **284 tonnes of CO_2,** equivalent to **five cars running for their entire lifetime.** Globally, **data centers already consume 1–2% of electricity,** and this figure could jump to 8% by 2030, largely due to AI workloads.

What does this mean for us as finance professionals? It means the clients we serve whether they're in manufacturing, fintech, or retail are likely to embrace AI to stay competitive. But with that adoption must come **accountability** not just for financial performance, but for **sustainable AI practices.**

This is where we step in.

INDIA'S PUSH FOR GREEN AI

India is not behind. In fact, we are racing ahead with initiatives like:

Adani & Google's Clean Energy Collaboration in Khavda, Kutch, Gujarat.

The Adani Group and Google have partnered to supply clean energy from a new solar-wind hybrid project located in the Khavda renewable energy park in Gujarat. This project is expected to commence commercial operations in the third quarter of 2025, aligning with Google's goal to power its cloud services and operations in India entirely with clean energy by 2030.

Microsoft's Investment in Telangana for Carbon-Negative Data Centers

Microsoft has announced plans to invest approximately $3.7 billion in Telangana to build data centers with a capacity of 660 megawatts. This investment is part of Microsoft's commitment to achieve carbon-negative operations by 2030, sourcing clean power from renewable energy companies.

NATIONAL DATA CENTRE POLICY

India's National Data Centre Policy mandates progressive renewable energy targets for data centers, aiming for 50% renewable energy sourcing by 2027 and 70% by 2030. This policy is part of the government's broader strategy to promote sustainable practices in the rapidly growing data center industry.

Given the high electricity demand of data centers, especially those supporting cloud computing and AI, this policy is a strategic move to decarbonize digital infrastructure. It ensures that India's rapid digital expansion is aligned with its sustainability commitments, promoting responsible growth in the tech ecosystem.

ROOFTOP SOLAR INITIATIVES: PM SURYA GHAR YOJANA

The PM Surya Ghar Yojana encourages the installation of rooftop solar systems across India. The initiative aims to increase the country's rooftop solar capacity significantly, with projections estimating growth from 17 GW in FY25 to 30 GW by FY27.

PRODUCTION-LINKED INCENTIVE (PLI) SCHEMES FOR GREEN ELECTRONICS

The Indian government's Rs. 22,919 crore Production-Linked Incentive (PLI) scheme for electronic components, announced in March 2025, is strategically aligned with the future of energy-efficient AI infrastructure. It focuses on scaling up domestic manufacturing of lithium-ion batteries, semiconductor modules, and display panels — all essential to powering next-gen data centers, edge AI devices, and energy-smart electronics. By strengthening the supply chain for green electronics, the scheme indirectly fuels the backbone of sustainable AI operations across India.

These developments underscore India's commitment to integrating renewable energy into its technological infrastructure, positioning the country as a potential global leader in sustainable AI infrastructure.

What excites me the most is that India is not just a consumer, but a potential **global leader in sustainable AI infrastructure.**

WHAT WE, AS FINANCE PROFESSIONALS, CAN DO

As finance professionals, we're trusted with more than books—we're trusted with vision. Here's how we can contribute:

1. **Guide Clients Toward Green AI**

   Encourage clients to adopt AI systems that run on renewable-powered cloud platforms. Help them evaluate tech partners who are carbon-conscious.

2. **Integrate Carbon Accounting**

   Offer carbon accounting services, especially for tech-driven businesses. Track, measure, and report emissions from IT operations and AI use.

3. **Promote ESG(Environmental, Social and Governance) Frameworks**

   Help companies draft and comply with ESG reporting guidelines, incorporating data center energy use, e-waste recycling, and renewable integration.

4. **Encourage Green Investments**

   Advise on tax incentives, green bonds, and investment in solar rooftops, wind, or hybrid projects. These are not just sustainable, but profitable too.

5. **Support Circular Economy Models**

   Many companies still don't plan for hardware recycling. We can initiate internal audits and sustainability reviews that address solar panel or server waste responsibly.

SUSTAINABILITY: NOT JUST AN OPTION, BUT A RESPONSIBILITY

I'm not suggesting we halt AI progress.On the contrary, I believe AI can be a **tool for sustainability.** From optimizing energy grids to forecasting climate risks, AI can be a game changer. But we must ensure **its power doesn't become a burden** on our planet.

We, as finance professionals, are uniquely positioned to **bridge financial prudence with environmental vision.** Let's educate our clients, innovate within our firms, and influence policy whenever possible. Let's promote AI that is **not only smart but sustainable.**

FINAL INSIGHT

Sustainability is no longer the responsibility of just CSR teams or environmentalists. It's ours too. Let's move beyond ticking boxes and start shaping business models that **respect both balance sheets and the biosphere.** Let's not treat sustainability, ESG, green AI, etc., as just paperwork. Let's genuinely embed them into how businesses think and operate. In a world racing towards automation, let's ensure we're **equally racing toward accountability.**

DELEGATION, AUTOMATION, AND PRODUCTIVITY IMPROVEMENT FOR TAX PROFESSIONALS

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INTRODUCTION

Nothing is constant in the professional life of a Tax Consultant. For small and mid-sized tax professionals who are solo practitioners and the firms with limited staff, keeping up with changes in environment is not optional; it's essential.

The days when one person could handle everything from client meetings to documentation, compliance filings, and tax planning are over. With increasing complexities in GST, Income Tax, Multiple regulations like MCA (for Companies & LLPs), and plethora of rules and regulations applicable to specific industries related to every client, the list is long and there's simply too much on a single desk.

Enter the trio of delegation, automation, and productivity enhancement.

This article focuses on practical, actionable strategies for small-sized tax firms by exploring:

- Why delegation and automation are critical today
- How learning new tools and practices can transform your work
- How each approach improves productivity for the principal or head of the firm

Let's begin by understanding the current scenario.

THE NEED FOR DELEGATION AND AUTOMATION IN THE CURRENT SCENARIO

India's compliance environment has become increasingly digitized and rigorous. The government pushes for transparency, reporting to gather data, timely filings, and e-governance, which has drastically increased the administrative burden on small tax practitioners, who must handle massive data filings and meet numerous deadlines.

THE COMPLIANCE MAZE

Think of a typical tax season:

- 100+ clients expecting their ITRs filed before the deadline
- Businesses needing GST reconciliations monthly
- MCA filings due for multiple clients
- Ever-changing rules (e.g., new TDS sections or notices asking for information)

The sheer volume of work can break a solo practitioner or a small team with not so technically qualified staff.

RESOURCE CRUNCH IS REAL

Small firms operate on limited budgets. Hiring a large staff or specialists for each segment of work isn't feasible, nor is outsourcing everything. Most principals try to do too much themselves, sacrificing growth for survival.

TECHNOLOGY ADAPTION GAPS

Many small firms hesitate to adopt available software tools—due to lack of awareness, fear of change, or simply being too busy. Most tools also lack seamless integration. Add to that budget constraints, data migration challenges, and staff resistance to change, and the result is a significant competitive disadvantage.

Bottom line: Delegation and automation aren't luxuries—they're necessities.

THE NEED FOR LEARNING NEW THINGS

Before we dive into the specifics, let's acknowledge one uncomfortable truth: learning never stops.

Small firm principals often get stuck in day-to-day, repetitive tasks that could be automated or delegated. Without upgrading skills in technology, team management, and workflow design, they become the bottleneck in their own firm.

WHY LEARNING MATTERS MORE THAN EVER

- **New tools**: Cloud-based new platforms and advanced features of the software like tally which we already use, offer huge time savings and can remove repeated processes but only when you know how to use them with every update.
- **Regulatory changes**: Missing a compliance update can ultimately result in loss of trust.
- **Leadership growth**: Delegation only works if you understand how to lead and train your team. Leaders do not just lead people; they create future leaders too. Truly said by Abraham Lincoln *"Give me six hours to chop down a tree and I will spend the first four sharpening the axe."*

REMEMBER: "Learning is not a cost, it's an investment in survival and success"

DELEGATION: AN ART OF GETTING THINGS DONE

What Delegation Really Means

Delegation is not about dumping work on others. Strategically delegation is assigning responsibilities in a structured way, trusting your team, and ensuring that tasks are executed without micro management.

Where We Struggle or Fail to Delegate

- "No one can do it as perfectly as I can."
- "It takes more time to correct the mistakes than doing it on own."
- "I don't have time to train someone."
- "I don't trust the staff dealing with clients."

Sound familiar? These mindsets lead to burnout and stagnation.

BENEFITS OF SMART DELEGATION

1. **Frees Up Most Premium Time**
   - Example: Instead of preparing returns yourself, assign it to a staff member after a training session. Invest in training and reviewing for some time. Once staff is confident about the basics, you will spare a lot of your time. Use this time for business development, client meetings and upgrading yourself.
2. **Building Team Capabilities**
   - When Staff feels motivated, they try to be more involved and start taking initiatives. You can reduce dependence on one person.
3. **Practice Makes Men Perfect**
   - Specialization and repetition lead to expertise. With sense of responsibility, the output tends to be better. One person handling GST filing consistently will make fewer mistakes than someone juggling everything.
4. **Use 80:20 Rule**
   - If you're unavailable, someone else in the firm knows the process and the business continuity is maintained for 80% of the tasks which needs no direct intervention. Target that your office can operate seamlessly even when you are on vacation.

HOW TO START DELEGATING

- Start with low-risk tasks (data entry, follow-ups).
- Create SOPs (Standard Operating Procedures).
- Trust people. Be Approachable. Accept that mistakes will happen and guide them how to avoid mistakes. Appreciate and correct constructively.
- Set up a strong checklist and reporting structure.
- Review, but don't micromanage.

REMEMBER: "You don't scale a firm by doing everything yourself. You scale by trusting your people to grow with you."

AUTOMATION: BE CLUTCH FREE!

WHAT AUTOMATION LOOKS LIKE IN A SMALL TAX PRACTITIONER'S FIRM

- Auto or pre-scheduled reminders to clients for pending documents via WhatsApp or email.
- Auto-entry of invoices from PDFs to accounting software.
- GST reconciliation done via software tools or AI tools.
- Cloud storage for backup and easy access from anywhere anytime.
- Online appointment booking to reduce back-and-forth.
- Task Assignment and Management Tools.

BENEFITS OF AUTOMATION

1. **Time Saver**
   - Monthly tasks like GSTR-2B Reconciliation, GSTR-1 & 3B filing can take multiple hours manually. With automation, it can be cut upto few minutes.
2. **Nearing Six Sigma**
   - Our job is thankless, and we are expected to be errorfree. Human fatigue often leads to missed entries or wrong data uploads. Auto invoice entry tools, OCR tools, auto entry tools, direct bank imports etc. can avoid errors instantly and increase the productivity.
3. **Mission Zero Follow-Up**
   - Use simple platforms to automatically remind clients of upcoming due dates, document submissions, and payment statuses. Follow-ups should be reduced with setting up proper communication and setting expectation with clients.
4. **Break Free from Office as an Infrastructure**
   - Cloud-based systems mean your team can work from anywhere, increasing flexibility and attracting better talent.

HOW TO START AUTOMATING

- Use simple tools like Google Services, Microsoft Services and other useful web services in free or cost-effective manner.
- Implement software with great care. Look for future support, timely updates and upgrades and easy user interface.
- Integrate file-sharing via Google Drive or Dropbox or any other storage services.
- Use office or project management tools for task management and reporting.

PRODUCTIVITY IMPROVEMENT FOR THE PRINCIPAL

THE PRINCIPAL'S PRODUCTIVITY CONUNDRUM

The principal in a small tax firm is the Swiss army knife! From being a compliance checker, client handler, HR, and sometimes even filing the papers – an all-rounder. This leads to decision fatigue, stress, and stagnation.

WHERE PRODUCTIVITY LEAKS HAPPEN

- Wasting time searching for files
- Handling minor client queries that staff could solve
- Repeating the same instructions multiple times
- Doing things manually that could be automated

HOW TO IMPROVE PRODUCTIVITY

1. **Time Management is Life Management**
   - Allocate specific hours for client meetings, review work, learning, and rest.
2. **Delegation + Automation**
   - Use both to remove at least 80% of daily workload.
3. **Use Templates**
   - Email responses, engagement letters etc. all can have reusable templates.
4. **Communication is the Key**
   - Clear communication and proper expectation setting with clients.
5. **Regular Reviews**
   - Keep everyone aligned and reduce chaos. Minimum firefighting helps a lot.
6. **Limit Distractions**
   - Reduce time going in checking WhatsApp, e-mails, social media etc. For phone calls, try to be to the point and avoid advising on call at any time.
7. **Use Organizer**
   - Use Google Calendar or outlook to maintain your digital diary. Plan your rest of the works accordingly wherever possible. Prefer timely communication for change in meeting schedule. This will reduce fire-fighting.

CONCLUSION

For tax professionals, the future is about working smarter, not harder.

- **Delegation** empowers your team and frees your time.
- **Automation** makes you faster and more accurate.
- **Learning** equips you to stay relevant and competitive.
- **Productivity** isn't about working late nights—it's about designing your workday better.

Yes, the transition takes time and effort. But once you begin, you'll wonder why you didn't start earlier.

Pro Tip: Start small. Delegate one task. Automate one workflow. Learn one new tool every month.

That's how transformation begins.

GLIMPSES OF 33RD ANNUAL GENERAL MEETING ON 31/05/2025

MEDIA GALLERY

AGFTCના વર્ષ ૨૦૨૫-૨૬ના હોદ્દેદારો નિમાયા

સરદાર ગુર્જરી તા 5-6-2025

આશુતોષ ઠક્કર પ્રમુખ

પાર્થ દોશી માનદ મંત્રી

અમિત સોની માનદ સહમંત્રી

ઓલ ગુજરાત ફેડરેશન ઓફ ટેક્સ કન્સલ્ટન્ટ્સે વર્ષ ૨૦૨૫-૨૬ માટે નવાં હોદ્દેદારોની કરી નિમણૂંક

ગુજરાત મિત્ર તા 7-6-2025

નડિયાદના ટેક્સ કન્સલ્ટન્ટ્સની ઓલ ગુજરાત ફેડરેશનમાં નિમણૂંક કરાઇ

નડિયાદ | અમદાવાદ સ્થિત ઓલ ગુજરાત ફેડરેશન ઓફ ટે કન્સલ્ટન્ટસની પ્રથમ કારોબારી સભા મળી હતી. જેમાં સર્વાનુમ વર્ષ 2025-26 મા હોદ્દેદારો નિમાય હતાં. જેમાં પ્રમુ તરીકે આશુતોષ ઠક્ક ઉપરાંત સિનિયર વાઇસ પ્રેસિડેન્ટ તરી રમેશભાઇ ત્રિવેદી, ઈમીરેટસ પ્રેસિડેન્ટ તરીકે અશ્વિનભાઇ શાહ, મં તરીકે પાર્થ દોશી, અમદાવાદ ઝોન ઉપ પ્રમુખ તરીકે મૃદાંગ વકીલ, સાઉથ ઝોન ઉપપ્રમુખ તરીકે મિતીશ મોદી, સેન્ટ્રલ ઝોન તરીકે સુનિ શાહ, નોર્થ ઝોન તરીકે મહેન્દ્ર સ્વામી, સૌરાષ્ટ્ર ઝોનમાં સંજીવ બુ માનદ સહમંત્રીમાં અમિત સોની, દીપેશ શાકવાલા, સુવ્રત શાહ અ ખજાનચીમાં મૌલિન શાહની નિયુક્તિ કરવામાં આવી છે.

ઓલ ગુજરાત ફેડરેશન ઓફ ટેક્સ કન્સલ્ટન્ટ્સના હોદ્દેદારોની વર્ષ ૨૦૨૫-૨૦૨૬ માટે નિમણૂંક કરાઇ

All Gujarat Federation of Tax Consultants Announces New Leadership for 2025-26

Gandhinagar, The All Gujarat Federation of Tax Consultants (AGFTC) has announced its new office bearers for the activity year 2025-2026, following unanimous elections held during the organization's 33rd Annual General Meeting on May 31, 2025, and subsequent Managing ...

... nior Vice President, with zone-wise Vice Presidents covering South ... Zone (CA Mitish S. Modi), North Zone (Advocate Mahendra H. Swami), Saurashtra Zone (CA Sanjeev Buddh), Central Zone (Advocate Sunil C. Shah), and Ahmedabad Zone (Advocate Mrudang H. Vakil).

... retary, supported by three Joint Secretaries: Advocates Amit G. Soni and Dipesh Shakwala, along with CA Suvrat Shah. Advocate Maulin B. Shah will serve as Honorary Treasurer.

Newly appointed President Ashutosh R. Thakkar told that, One of the core objectives of my tenure will be to strengthen our presence through structured plan of Mofussil educational programs. We will bring learning and interaction opportunities directly to our members across smaller towns and regions of Gujarat. These Innovative bridge the gap and ensure ...

સંદેશ City Life

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ઓલ ગુજરાત ફેડરેશન ઓફ ટેક્સ કન્સલ્ટન્ટ્સના હોદ્દેદારોની નિમણૂક કરાઇ

WITH BEST COMPLIMENTS FROM