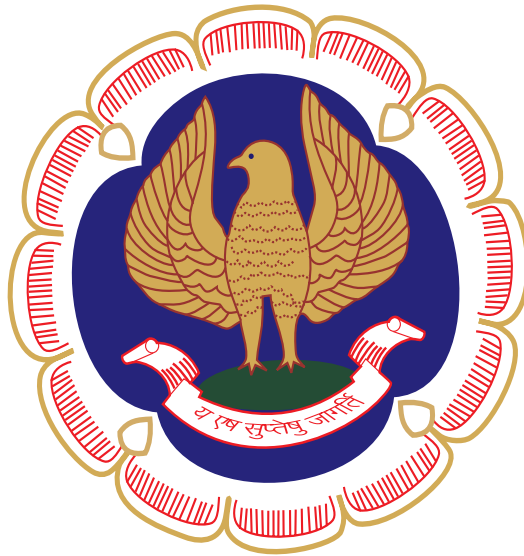


**The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)**

**PUNE BRANCH OF WIRC OF ICAI
NEWSLETTER**



Issue No. 3 - March 2019

(Subscribers copy not for sale)

"Love yourself. It is important to stay positive because beauty comes from the inside out. Believe in yourself. Always believe best is yet to come."

Congratulations

Newly Elected Managing Committee Members of Pune Branch of WIRC of ICAI F.Y. 2019-2020



From L To R :- CA. Amruta Kulkarni-MCM, CA. Anand R. Jakhotiya-RCM, CA. Rajesh Agrawal-MCM, CA. Yashwant Kasar-RCM, CA. Abhishek Zaware-MCM, CA. Kashinath Pathare-Treasurer, CA. C. V. Chitale-CCM, CA. Abhishek Dhamne-Vice-Chairman, CA. Ruta Chitale-Chairperson, CA. Sameer Laddha-Secretary.

Pune Branch of WIRC of ICAI glad to announce Best Branch & Best Students Association Award 1st Prize at Regional Level in Large Branch Category



PUNE BRANCH OF WIRC OF ICAI

Forthcoming Programmes

SR. NO.	DATE	SEMINAR NAME	ANALYSIS	VENUE	TIME	FEEES	CPE HRS.
1.	13th Apr, 2019	Seminar on "GST Audit & Recent Trends in GST Litigation"	Basic	ICAI Bhawan, Bibwewadi, Pune	4.00 pm To 7.00 pm	Rs. 200/- Plus GST No Fees for Saturday Series-II Participants	3 Hrs.
2.	13th Apr, 2019 To 12th May, 2019 (Every Sat & Sun)	ISA PT Batch	PQC	Hotel Gandharva, JM Road, Pune	9.30 am To 5.30 pm	Visit http://pqc.icaai.org	-
3.	13th Apr, 2019 To 5th May, 2019 (Every Sat & Sun)	Certificate Course on "Forensic Accounting & Fraud Detection"	PQC	Orbett Hotels, Apte Road, Pune	9.30 am To 5.30 pm	Visit http://pqc.icaai.org	-
4.	19th Apr, 2019	Seminar on "MVAT Amnesty Scheme"	Basic	ICAI Bhawan, Bibwewadi, Pune	4.00 pm To 6.00 pm	Rs. 100/- Plus GST	2 Hrs.
5.	26th Apr, 2019	Seminar on "Data Science"	Basic	ICAI Bhawan, Bibwewadi, Pune	4.00 pm To 7.00 pm	Rs. 200/- Plus GST	3 Hrs.
6.	27th Apr, 2019	Awareness Programme on "ICAI Valuation Standards 2018 and Related Aspects"	Basic Plus Case Studies	ICAI Bhawan, Bibwewadi, Pune	9.30 am To 5.00 pm	Rs. 600/- Plus GST No Fees for Saturday Series-II Participants	6 Hrs.
7.	4th May, 2019	Seminar on "Use of Tally in GST Reporting & Tips and Tricks in Tally"	Basic Plus Practical (Bring laptops with tally)	ICAI Bhawan, Bibwewadi, Pune	11.00 am To 2.30 pm	Rs. 300/- Plus GST	3 Hrs.

Notes:-

- 1) Registrations half an hour before program timings mentioned above.
- 2) For online registrations & detailed programme structure visit www.puneicaai.org

Seminar on "UDIN - An Easy Way to Secure Certificates"



Inauguration



Participants



CA. Ranjeet Kumar Agarwal
Chairman - PDC, ICAI



CA. S. B. Zaware
Speaker

Chairperson's Communique

Respected Members,

March is a month marked by excitement and anxiety. This month signals the end of a (financial) year and there are indications of new beginnings. The spring is also just around the corner. I felt similar feelings with the excitement of branch elections, getting elected with highest number of votes-at First position and now this new spell in my life- as a Chairperson. It is a special, proud feeling of becoming the chairperson of one of the mega branches-in whole of India. However, it has also filled me with dread, whether I would be able to fulfill the expectations of all the members who have reposed their confidence & faith in me.



CA. Ruta Chitale
Chairperson
Pune Branch of WIRC of ICAI

It's a year where I hope to give platform to my convictions and implement the ideas that are in the best interest in the members and students of this branch. I hope that I shall be able to respond to each and every query raised, that I would be able to implement every suggestion made and that I would be able to do all that which shall be for the good, whole good of the community of Pune.

It is no doubt a formidable task but then there is nothing impossible when there is faith, the faith in one self and faith in the team. We at Pune branch have an excellent team. The elected members have the highest possible regard for the members of today as well as that of tomorrow !!! The Office staff is simply one of the best. There could not be a better combination one can ask for. On behalf of entire team I can assure that we all are here for sharing the good and the bad, the happy and the sad and above all the best and the excellent.

I shall be communicating with all of you throughout the year and even later, but I intend to focus on following areas in this quarter:

- a. Infrastructure,
- b. New Areas of Practice,
- c. Enhancement of Fraternity feeling amongst CA as a community

Bank Audits are about to be completed and the focus shall definitely be on NPA and Asset Erosions. We as Statutory auditors of banks have to be careful and diligent in light of previous year's press release of RBI dated 29.06.2018 relating to 'Enforcement action framework for SA in case of deficiencies in Audit'. Happy and Careful Auditing!!

Let me end my first communique as a chairperson by quoting one of my favorite's: Success doesn't lie in the 'Results', but in the 'Efforts'.

'Being' the Best is not important but 'Doing' the Best is all that matters.

I intend to do my best and more!!

Best Regards,
CA. Ruta Chitale

Sub-Committees of Pune Branch of WIRC of ICAI for the year 2019-2020



CA. Neha Phadke



CA. Mithun Kotecha

1. CPE Committee				
Sr. No.	Name	Designation	Contact No.	Email Id
1.	CA. Ruta Chitale	Chairperson	8390610136	rutachitale@rediffmail.com
2.	CA. Abhishek Dhamne	Vice Chairman	9890541551	abhishekdamne@ssdca.in
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4.	CA. Kashinath Pathare	Member	9890625758	kbpathare@gmail.com
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6.	CA. Mithun Kotecha	Co-opted Member	9323268877	camithunk@gmail.com



CA. Sachin Miniyaar



CA. Yadnyesh Pujari

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CA. Vikrant Salunke



CA. Jugal Doshi

3. Information Technology Committee				
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6.	CA. Jugal Doshi	Co-opted Member	9146247088	jugaldoshi94@gmail.com



CA. Shobhna Gado



CA. Mrudula Patki

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CA. Sagar Guilda



CA. Sanjay Ambesange

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CA. Nandkumar Kadam



CA. Sharvari Wagh

6. Committee for Members in Industry				
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4.	CA. Amruta Kulkarni	Member	9881434468	amrutamkulkarni@gmail.com
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6.	CA. Sharvari Wagh	Co-opted Member	8149936309	casharvariwagh@gmail.com



CA. Suraj Agrawal



CA. Rahul Bajaj

7. Students Co-ordination Committee				
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3.	CA. Abhishek Dhamne	Member	9890625758	abhishekdamne@ssdca.in
4.	CA. Abhishek Zaware	Member	9850834971	abhishekwaware@gmail.com
5.	CA. Suraj Agrawal	Co-opted Member	9422182447	casurajra@gmail.com
6.	CA. Rahul Bajaj	Co-opted Member	9420193393	rahulbajaj41@gmail.com

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Revised GST Rates on Residential Properties – Challenges Galore for Developers!

Contributed by :- CA. Pritam Mahure

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The 33rd GST Council meeting on 24th February 2019, in its Press Release ('PR'), recommended to implement, from 1st April, 2019, the revised rates for residential properties as under:

- a. GST @ 1% without ITC for affordable housing properties and
- b. GST @ 5% without ITC for residential properties other than affordable segment.

It may be noted that there is no specific mention or clarification about 'commercial' properties and thus, one can safely assume that the GST rate of commercial properties is expected to continue @ 12% with input tax credit.

At the outset, it may be noted that the aforesaid is not just a 'rate change' for developers but rather a 'business change' as it is going to impact the existing input tax credit ('ITC'), cost of ongoing projects, cost of future projects, anti-profiteering computations, existing and new contracts with vendors and customers, spill over transactions, IT/ERP systems etc. as discussed in the following paras.

Shifting of burden from consumer to developers

The reduction in GST rate is with a rider of non-availability of ITC. The non-availability of ITC will lead to an increase in the cost of construction for developers. Typically, the cost of construction ranges from INR 1,500 to INR 3,500 per sq. ft. At present, most inputs and input services attract GST at 18 % (except cement which attracts GST @ 28 %).

On an average, the GST on a cost of construction of say INR 3,000 per sq. ft will be INR 450 which comes to 15 % of cost of construction.

Impact on developers having residential and commercial projects

As discussed earlier, commercial properties are expected to continue to attract GST @ 12% with input tax credit. This means, if a developer is having both, residential and commercial projects, then developers will be required to maintain the records to claim credit pertaining to commercial properties and reverse the credit pertaining to residential properties.

The aforesaid mechanism is certainly going to open up a *Pandora's box* for developers having mixed projects (say shops on ground floor) as it will be difficult to apportion credits (as roof, lift or infrastructure could be common).

Impact on transitional credits and other aspects

Surprisingly, clarity is still missing on the transitional provisions or transitional credit for on-going projects wherein the developers have already passed on the anti-profiteering benefits.

With respect to ITC balance, it may be recalled that the Apex Court in the case of Dai Ichi Karkaria Ltd [1999 (112) ELT 353 (SC)] held that '...credit that has been validly taken, and its benefit is available to the manufacturer without any limitation... The credit is, therefore, indefeasible.' Similarly, was held in the case of Eicher Motors Ltd [1999 (106) ELT 3 (SC)].

Now, the question is whether the developers, based on the Apex Court rulings, be allowed to continue to carry forward the ITC credit which is already accrued? Or the ITC credit lying with the developers will be required to be split into sold/ billed area and unsold area and credit only to the extent on sold/billed area will be allowed to be carried forward?

Many such questions are going to haunt the developers in days to come.

Fate of development rights/ TDR/ JDA etc

As per the PR, *Intermediate tax on development right, such as TDR, JDA, lease (premium), FSI shall be exempted only for such residential property on which GST is payable.*'

Thus, it appears that the GST Council is of the view that TDR, JDA, lease (premium), FSI etc. are liable to GST. This view of GST Council is surprising, as TDR are the rights attached to the land and building and there are judicial precedents wherein TDR are considered as equivalent to land and building (refer to Chheda Housing Development Corporation [2007 (3) MhLj 402]).

Further, if GST is already paid by the developer on TDR, on a project, which will be constructed say after 1st April, 2019, then will the credit of this GST be available (assuming GST is payable @ 5% on this property)? What will be the fate of agreements entered into March 2019 but registered after April 2019? From such un-answered questions, it is apparent that this proposed exemption is going to stir up a hornet's nest.

What is affordable housing?

As per the PR, it is proposed that affordable housing to include a residential house/flat of value up to Rs. 45 Lakh and carpet area of 60 sq. meters for metropolitan cities and 90 sq. meters for non-metropolitan cities.

This new definition is different from the earlier one. Further, the PR does not specify whether there will be any additional requirement (such as 50% the total flat of a scheme should be belonging to the affordable section etc). Even clarity on these aspects is eagerly awaited by developers and consumers alike.

Impact on un-registered vendors

At present, non-filers and later-filers of GST returns still remain a cause of concern for GST Authorities. Further, if GST credits are not available to developers then the developer won't be incentivised (by way of credit) to procure from GST registered vendors or ensure their (vendor's) compliances.

More exclusions than inclusions in GST

Since introduction of GST, few of the products such as specified petroleum products, electricity etc are outside the ambit of GST, leading to scenario of tax cascading. After introduction of GST, India was expecting inclusion of all the sectors/ product under the ambit of GST to allow free flow of credits.

However, it can be observed that since the last nineteen months, exactly opposite is happening as numerous products/ services are being exempted literally after each GST Council meeting.

Apart from product/ services, even few sectors are getting excluded, for instance, in November 2017, GST Council decided to levy GST @ 5% without ITC on restaurant sector. This change in rate has impacted the restaurant industry as they are unable to claim credit. Additionally, on a policy level, it's still questionable whether the move of reduction of GST rate coupled with disallowance of credit to restaurants has actually benefitted the consumers, because in many cases the menu prices of restaurants either remained the same or rather increased (as ITC is not available).

Even further, an underlying question still remains un-answered is whether the GST rate (i.e. 5% without credit), as made applicable to restaurant sector, be applied to construction sector wherein almost all procurements attract GST? This question is of critical importance as it may be noted that when there is already Stamp Duty (ranging up to 6%) applicable on real estate transactions, is there a rationale to collect 5% without credit? Won't it lead to an increased burden on the home buyers?

Further, the total denial of credit to residential sector appears to be a backward step as it may be recalled that in the erstwhile service tax regime, the credit on service tax paid was available to developers. Now, as the GST Council has proposed 5% without credit, this move will take the developers more backwards than the earlier Service Tax regime wherein at least credit of Service Tax was available.

Way forward

While, we all eagerly await notification / circular providing detailed clarity on aforesaid aspects before new rates are introduced (i.e. before 1 April, 2019), only time will tell whether the quick fixes (change in rates and disallowing ITC) will create more challenges or prove to be good step for GST regime in the long run.

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Co-operative Banking in India and NPA Management for Co-operative Banks (Part-3)

Contributed by :- CA. Aalhad V. Deshmukh

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In Part 2 of the write-up, we read about Financial Performance of UCBs, Framework of UCBs and started discussion about NPA Management.

In this last part, we shall read about Approaches to NPA Management for UCBs.

Approaches to NPA Management

Regular Monitoring of Prone NPAs

Once the assets are identified as prone-NPA, banks need to take an important call and monitor the accounts closely. The first and foremost thing is to check the intent of the borrower. The job of frontline officials of the bank becomes utmost important who need to discuss the conduct of the account with the borrower to understand difficulties being faced in the business. This discussion should not be turned into an argument or confrontation.

If the lapses in regular repayment are due to unintentional mismanagement, banks need to help the borrowers in managing the funds to avoid further slippage into NPA. The general perception among borrowers is that sickness and NPAs are caused by lack of funds. But this may not be the case all the time. Management of the company is solely responsible to tackle difficult business situations. Before committing any additional finance to the borrower, banks need to make sure that there has been no diversion of funds and the borrower is facing genuine difficulties.

Concurrent Auditor can play a crucial role in monitoring of prone NPA Accounts. Bank officials need to include the same in the scope of work of concurrent audit and specifically request the auditors to monitor the separately identified prone NPAs.

It was pointed out by RBI that banks still rely on traditional funds flow statement which sometimes creates misleading picture. Banks should rather seek information about Cash Flows of the borrower and restrict the borrower to divert the money for non-core business activities.

Sometimes, borrower depends on incentives / subsidies from the government and banks rely on cash flow projections which assume such receivables from the government authorities. Delays in receipt of subsidy from the government can result into pressure on the business of the borrower. Banks need to take a stricter view while appraising such financial projections.

Forensic Audit of Red-Flagged Accounts

Banks need to take a call on the intention and integrity of the borrower and should separately identify Willful Defaulters. Bank can order Forensic Audit of such accounts to determine if there was any intentional diversion of funds. Forensic Audit findings also make a ground for future legal action if any to be taken by the bank against the borrower. Recently PSU banks have started carrying out forensic audits on accounts which have loans of above INR 50 Crores. This is in accordance with the directives of the Finance Ministry.

A forensic audit is an examination of an entity or individual's financial information. The outcome of this forensic audit can be submitted in court as evidence. This type of audit is quite handy to identify misreporting of accounts, fund diversion, fraud and wilful default.

Restructuring of Advances / Debt Restructuring

Clause 2.2.7 and annexes 5, 6, and 7 of the RBI Master Circular No. RBI/2015-16/44 dated July 01, 2015 as applicable to the UCBs give prudential guidelines on restructuring of advances. Given below are some important aspects of Restructuring of Advances:

- Restructuring of Advances normally includes deferment of installments, reduction of interest rate, conversion of unpaid interest into FITL, allowing further moratorium, converting CC into WCTL etc.
- Restructuring is not admissible if the asset has been marked as Loss Asset.
- Standard Asset upon restructuring would be reclassified as Sub-standard. NPA on restructuring would slip into further asset class.
- Restructured Accounts can be reclassified to Standard category upon observation of satisfactory performance during specified period.
- During the specified period of one year, additional finance if any can be treated as Standard. If the restructured advance does not meet the norms for upgradation after one year, the additional finance will be reclassified in the same asset class as that of the restructured advance.
- Interest income on restructured advance which is treated as standard shall be recognized on accrual basis. If the restructured advance is treated as NPA, income would be recognized on cash basis.
- As per extant asset classification, normal provisioning will be done. In addition to Normal Provision, banks need to make provision for diminution in the Fair Value of the Asset. Diminution in the Fair Value is calculated as the different between Present Value of Cash Flows (Original Interest + Principal) before restructuring and Present Value of Cash Flows (Revised Interest + Principal) after restructuring. Discounting Rate for the purpose of calculating Present Value is arrived at as Bank's BPLR + Appropriate Term Premium + Credit Risk Premium.
- For CC / OD Accounts, period of only one year is reckoned for calculating the fair values.
- Even if the bank has insisted upon additional security from the borrower in lieu of Diminution in the Fair Value, the additional security will be valued at INR 1/- and economic impact on the Profitability Statement cannot be negated.
- As per the terms of restructuring, if the unpaid interest is converted into FITL, such FITL will be classified at par with the restructured advances.
- As in incentive for quick implementation of restructuring package, banks will be allowed to retain the pre-restructuring asset classification, provided the package is implemented within 90 days from the date of receipt of application from the borrower. This is subject to few conditions like security cover, promoter's contribution for bank's sacrifice etc.
- Banks need to disclose details of advances restructured in its Financial Statements. At the end of the financial year, banks need to report the figures of NPA to RBI within two months.

Sale of NPAs to ARCs

The concept of Asset Reconstruction Companies was introduced by virtue of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act, 2002). ARCs are regulated by RBI and they operate as Asset Management Companies. ARCs have a focused approach to isolate Non-Performing Assets from Performing Assets; Letting the Financial Institutions concentrate on their core business activity of banking and Facilitating Recoupment / Rejuvenation of Sick Businesses.

Assignment is usually done by paying some amount in upfront cash and issuing Security Receipts for rest of the consideration.

"It may kindly be noted that each case is a different one. The terms of the deal depend broadly on the type of business, severity of the NPA, value of the underlying security and chances of revival. Accordingly, deal size, offer price to the Bank and Ratio of Cash Consideration to Consideration in SRs may change."

The guidelines as per Annexure V to the RBI Master Circular on Investments by Primary (Urban) Co-operative Banks apply to Multi-state Co-operative Banks for sale of their Non-Performing Advances to Securitisation Companies / Asset Reconstruction Companies under the SARFAESI Act, 2002. Following are the highlights of the Annexure V:

- Multi-state UCBs can sell following assets to ARCs:
 - NPA including Non-Performing Bonds / Debentures
 - Standard Asset only if it is under Consortium / multiple banking; 75% of value has been treated as NPA by Consortium Partners and 75% partners by value give consent for sale to ARC
- The Sale of Financial Asset from Banks to ARCs is subject to the Terms & Conditions as agreed upon between the Bank and the ARC. Such sale can be on Recourse Basis as well as on Non-recourse Basis. However, it must be ensured that the Asset is taken off from the books of the banks and there should not be any known liability devolving around the bank.
- Sale is to be conducted by such policy approved by the Board of Directors. The Board of Directors of the Bank needs to frame a policy covering the following points.
 - Financial Assets to be sold
 - Norms & Procedures for sale of financial assets
 - Valuation Procedures to ensure Realisable Value is reasonably estimated
 - Delegation of Power various functionalities for taking decisions w.r.t. sale
- Banks need to ensure that after the sale, no operational, legal or any other type of risk is attracted by the bank. Every Bank has to make an independent assessment of the value offered by the ARC and decide whether to accept the offer or not. Transfer should not be conditional as to bearing / sharing future loss incurred by ARC.
- Banks can receive Cash / Bonds / Debentures / Security Receipts as a Sales Consideration for transfer of the Financial Assets. Such securities received by the bank shall be classified as Investments in the books of the bank. There can be an agreement between the bank and the ARC to share profits if any accruing as a result of eventual realisation of the Financial Asset transferred to ARC.
- The securities (Bonds and Debentures) issued by ARCs should satisfy the following criteria:
 - Term should not be in excess of 6 years
 - Rate of interest should not be lower than 1.5% above bank rate
 - Security must be secured by appropriate charge on the asset transferred
 - Security must be partly / fully paid if ARC sells the underlying security before maturity date / redemption
 - ARC should make an unconditional commitment of redemption / repayment and there should not be a precondition of realisation of Financial Asset
 - Whenever such security is transferred to other persons, notice in writing should be given to the ARC.
- The Debentures / Bonds / Security Receipts issued by ARC to the Bank should be treated as a Non-SLR Investment. Accordingly, the valuation, classification and other norms applicable to investment in non-SLR instruments prescribed by RBI from time to time would be applicable. However, if the bonds / debentures issued by ARC are limited to actual realisation of these instruments, then banks are required to reckon the Net Asset Value (NAV) of such instruments for valuation of the same.
- Banks selling their Financial Assets to Securitisation Companies / Reconstruction Companies need to make following disclosure in their Financial Statements:
 - No. of Accounts sold
 - Aggregate value (net of provisions) of accounts sold to SC / RC
 - Aggregate consideration
 - Additional consideration realized in respect of accounts transferred in earlier years
 - Aggregate gain / loss over net book value.
- Speaking from Bank's point of view, banks can sell the NPAs to ARCs and then can concentrate on core banking activities rather than wasting resources on recovery. Further, Balance Sheet of the Bank experiences significant improvement as the NPAs get removed from the books and are replaced with the Cash and Investment in SRs of Asset Reconstruction Companies. At the same moment, provisioning on the bad loan is no more required which ultimately leads to better profitability for the bank.

NCLT Route under IBC 2016

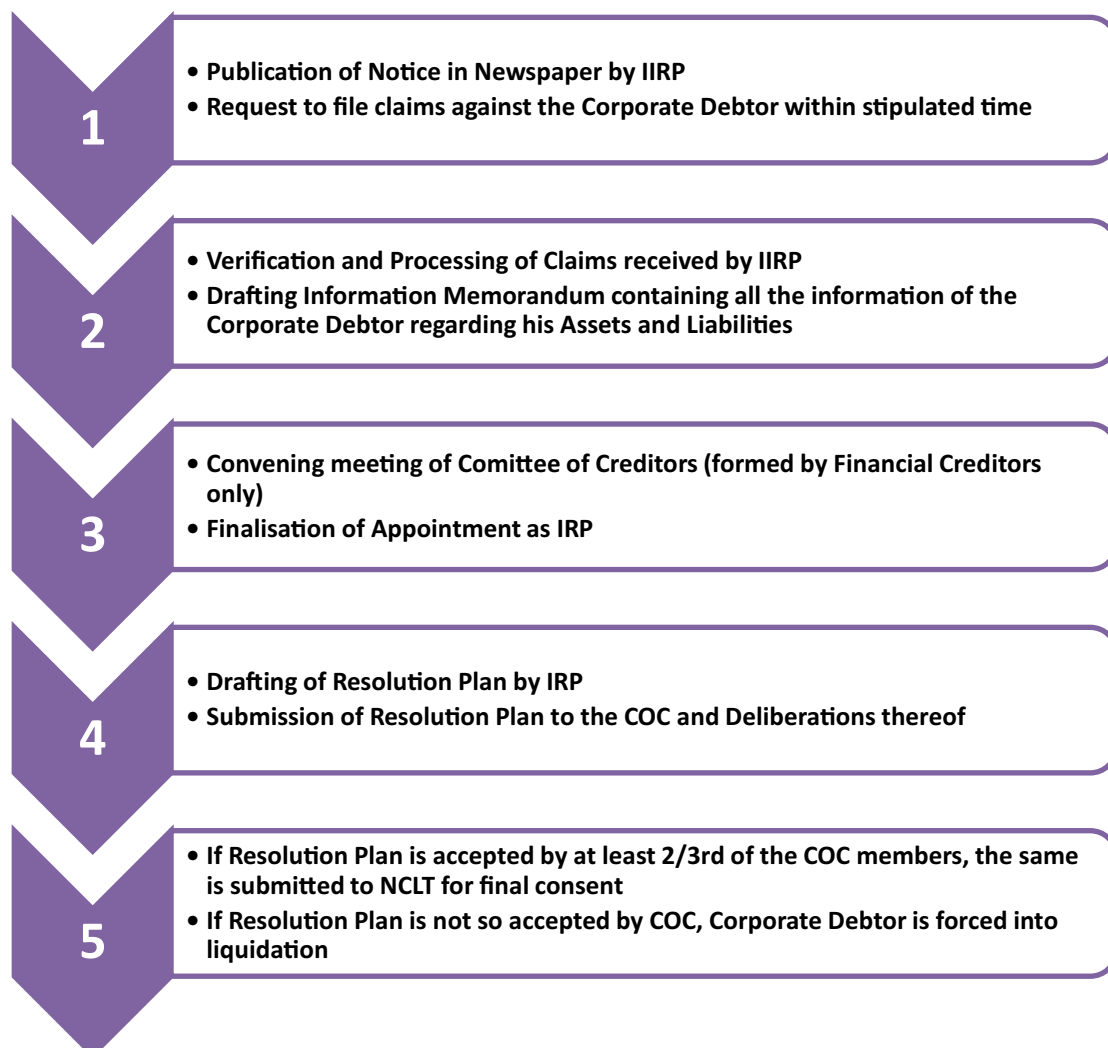
The Insolvency and Bankruptcy Code, 2016 has given wide powers to the banks to initiate recovery proceedings against defaulting borrowers. Along with traditionally available recovery options, it has opened another door for initiating recovery process. We can see many successful cases where banks could find amicable solution and could recover their dues.

In spite of PSU Banks finding good success, UCBs are still reluctant to go for NCLT Route. It must be noted that NCLT has been granted powers of High Court. As such, orders passed by NCLT overrides existing provisions of almost all the legislations in force. As such, UCBs need to positively consider NCLT Route in respect of their sticky NPAs.

Filing an application with the National Company Law Tribunal under the Insolvency & Bankruptcy Code, 2016 is typically known as 'Corporate Insolvency Resolution Process'. Following are the highlights of the CIRP under IBC 2016:

- As per section 5(7) of IBC, Financial Creditor is a person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred. Accordingly, banks are classified as Financial Creditors.
- CIRP can be initiated against a Corporate Debtors i.e. entity registered as a company or LLP which has committed a default.
- The Financial Creditor is required to file an application before the NCLT, along with the Demand Draft of INR 25,000/-. The matter after being listed and on admission will be taken for Corporate Insolvency Resolution Process (CIRP). The Financial Creditor needs to propose an Interim Resolution Professional (IRP) in an application filed with NCLT.
- Once the IRP is confirmed by the NCLT then he will act as Resolution Professional (RP). The fees payable to the IRP is initially payable by the Bank (Financial Creditor).

CIRP normally goes by following procedure:



As per the data published by IBBI, by April 2018, financial creditors have recovered over INR 49,783 Crores which amount to around 56% of the admitted claims in 32 csaes. Financial creditors i.e. banks, expectedly, made up for the bulk (96%) of the total claims admitted by NCLT. The Insolvency & Bankruptcy Code is way better than the earlier system of recovery, where recovery used to take a lot of time. Wherever there was a one-time settlement, the amount was usually not more than 20-30%.

Following were the key figures in some of the important cases (Amount in INR Crores):

	Admitted Claims	Resolution Amount
Bhushan Steel	56,022	35,571
Electrosteel Steels	13,175	5,320
Orissa Manganese & Minerals	5,389	310
Kohinoor CTNL Infra	2,528	2,246
Kamineni Steel & Power	1,509	600
MBL Infra	1,428	1,597

Latest Developments

As a part of overhauling the side-effects of GST, RBI has issued Notification No. RBI/2018-19/100 dated January 01, 2019. This has come as a New Year bonanza for all the banks and NBFCs who are regulated by RBI. Needless to mention that even UCBs are covered under this notification and they are urged to take benefit of the same by implementing restructuring packages for MSME borrowers who are facing difficult situations after implementation of GST.

Highlights of this notification are as under:

- With a view to meaningfully restructure GST registered MSME Loan Accounts which are classified as Standard, one-time restructuring shall be allowed without downgrading the asset into NPA category if it satisfies the prescribed conditions.
- The aggregate exposure of such borrower from all banks and NBFCs shall not exceed INR 25 Crores as on January 01, 2019.
- The borrower should be in default; but is classified as a Standard Asset as on January 01, 2019 and should continue to be a Standard Asset till the implementation of the restructuring package.
- Borrower should be a GST registered entity. This condition is not applicable to the borrowers which are exempt from GST registration.
- Restructuring Package needs to be implemented on or before March 31, 2020. Restructuring Package is treated as implemented if:
 - All the documentation including agreements, security / charge creation, perfection of security etc. are completed by all lenders.
 - New Capital Structure and / or Changes in the terms and conditions consequent to restructuring get reflected in the books of all the lenders.
- Banks shall be required to make 5% additional provision in respect of such restructured accounts. This additional provision can be reversed at the end of the specified period provided the borrower shows satisfactory performance during this specified period.
- Post-restructuring, NPA classification shall be as per extant IRAC norms. Further, banks shall be required to me appropriate disclosures in its Financial Statements.
- Banks willing to adopt this scheme, shall be required to have a Policy approved by its Board of Directors **within a month** from the date of this circular i.e. **on or before 01 February 2019**.
- It is further clarified that even NPA accounts can be restructured; however, extant IRAC norms will continue to apply to such accounts.

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Co-operative Banking in India and NPA Management for UCBS

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- The notification further comes with a rider which states that as a general rule, for any restructured account, banks would follow extant IRAC norms. Downgrading post-restructuring and upgrading after observation of satisfactory performance during specified period will be applicable.
- Specified Period is reckoned as one year from the commencements of first payment of interest / principal whichever is later under the restructured terms with longest moratorium. Satisfactory Performance means that no payment (interest / principal) should remain overdue for a period of more than 30 days. In the case of CC / OD, outstanding amount should not be more than the sanctioned limit or drawing power whichever is lower for a period of more than 30 days.

As the aforementioned notification is applicable to all banks and NBFCs regulated by RBI, the same is also applicable to UCBS. UCBS should take benefit of this scheme and first thing should get policy approved in their Boards. Once the policy is formed and approved, UCBS should identify prospective NPAs which satisfy the prescribed conditions and grant them restructuring packages.

Closing Remarks

As discussed earlier, UCBS need to have focused approach for NPA Management. Implementation of Preventive measures will surely help UCBS identify the problems in a timely manner and take action accordingly.

We all can agree that in spite of the efforts of the UCBS, economic factors will have a negative impact on the businesses which means that risk of NPAs will always be there. However, banks can have policies and methodologies which will mitigate this risk to a great extent.

Urban Co-operative Banks, in genuine cases, can help the borrower revive their business; thereby meeting the basic principles of co-operation.

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Programme on "Behavioral Finance, Algorithm & High Frequency Trading in India"



CA. Ashish Bahety
Speaker



Mr. Neetesh Rathod
Speaker



Participants

New GST Rates for Under-Construction House/Flat: Practical Dilemma

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To reduce the burden of GST on homebuyers, GST council in its 33rd meeting has reduced the rate to 5% without input tax credit ('ITC') for non-affordable houses and 1% without ITC for affordable houses. Affordable houses are defined as residential house/flat of carpet area up to 90 sq. metres in non-metropolitan cities and 60 sq. metres in metropolitan cities having value up to Rs.45 lacs in both the cases.

Proposed rates will apply from 1st April, 2019 and detailed contents of the scheme will be notified separately.

With the Government's announcement that the reduced rates will apply from 1st April, 2019, home buyers are in a quandary as to whether reduced rates will apply to ongoing construction work or the benefit of reduced rate is available to projects coming post the revision of rates. Confusion prevails for home buyers whether to go in for sale agreement before 1st April, 2019 or after 1st April, 2019.

The answer to this question is available in the 'time of supply' provisions as provided under Section 14 of the Central Goods and Services Tax Act, 2017 ('CGST Act') i.e. determination of time of supply in the case of change in rate of tax.

Before proceeding to dissect provisions of Section 14 of CGST Act, it is imperative to analyse other relevant provisions related to such construction contract.

In terms of Section 7 (1) (a) of Central Goods and Services Tax Act, 2017, ('CGST Act') read with entry no. 5(b) of Schedule II issued under Section 7(1A) of CGST Act, sale of under-construction houses/flats would be treated as supply of services.

Further, such type of construction contracts are classified under the category of 'continuous supply of services' under Section 2(33) of CGST Act for the reason that factors such as contracts are executed over a period of three months, periodic payment obligations etc., render them within the purview of the said definition.

Being in the nature of continuous supply of services, it is obligatory to the provider of service to raise invoice in the manner provided in Section 31(5) of CGST Act, as under:

- a. Where the due date of payment is ascertainable from the contract, **the invoice shall be issued on or before the due date of payment.**
- b. Where the due date of payment is not ascertainable from the contract, **the invoice shall be issued before or at the time when the supplier of services receives the payment.**
- c. Where the payment is linked to the completion of an event, **the invoice shall be issued on or before the date of completion of that event.**

Accordingly, in terms of Section 13 of the CGST Act, 2017, the time of supply in normal cases (to determine rate of tax applicable on the date of provision of supply) will be treated as the date of issue of invoice or in case payment is received before the date of issue of invoice, the date of receipt of such payment.

In the present situation where there is a reduction in rate of tax, the time of supply for applicability of rate of tax is to be determined under the provisions of Section 14 instead of Section 13.

In terms of provisions of Section 14, time of supply depends upon the following three events namely -

- a. When the services have been supplied - whether before the change in rate of tax or after the change in rate of tax,**
- b. when the invoice is raised and**
- c. when the payment is received.**

In terms of Section 14, time of supply in such case will determine the basis, that is, the period where majority of the above three events has happened. If the majority of the three events has happened before the change in rate, the earlier rate will apply and if the majority of the three events has happened post the change in rate, the new rate will apply.

The following table will help in understanding the provisions -

Event	SI NO	Scenarios	Time of supply	Applicable rates
Services have been supplied before change in rate of tax	1	Invoice has been issued and payment is also received after change in rate of tax	Earlier of i. Date of issue of invoice or ii. Date of receipt of payment	New
	2	Invoice has been issued after change in rate of tax, but payment is received before change in rate of tax	Date of issue of invoice	Old
	3	Payment has been received before the change in rate of tax, but invoice has been issued after change in rate of tax	Date of receipt of payment	Old
Services have been supplied after change in rate of tax	1	Payment received after change in rate of tax, but the invoice has been issued prior to the change in rate of tax	Date of receipt of payment	New
	2	Invoice has been issued and payment is also received before the change in rate of tax	Earlier of i. Date of issue of invoice or ii. Date of receipt of payment	Old
	3	Invoice has been issued after the change in rate of tax, but payment is received before change in rate of tax	Date of issue of invoice	New

The home buyers need to apply the above logic before they approach the Builders with request for reduction in rate in terms of the proposed reduction applicable from 1st April, 2019.

Apart from the above, the promise of reduced price to the home buyers will depend upon the extent of credits becoming cost on account of input tax credits being barred in the case of the proposed reduction in rates.

The question therefore remains whether new rates suggested by the GST council turn out beneficial to the home buyers or merely remain a mirage in the horizons of GST.

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Our role in Nation Building

Contributed by :- CA. Shobhana Gado

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I am sharing some of my thoughts today in the wake of the International Women's Day.

Let me make it very clear that I am not a feminist in a typical way, but I fully appreciate the theme for the day for 2019 - #BalanceforBetter. A gender balanced world is a better world.

Before I start with my topic – **Our role in nation building**, let us recollect in brief, the situation prevailing around us.

On the International Women's day, we are passing through a critical phase on economical, social as well as political fronts at the national and international level also. We are all aware of the multiple threats faced by both, the developing as well as developed economies.

Can we help to find out a solution?

My answer to this question, as a professional as well as a woman, is - yes, we can. Rather we must also contribute to the development of our nation.

Our Institute's role of a **partner in nation building** is well acknowledged. Institute of Chartered Accountants of India is already a name that stands for excellence in CA profession globally. I am proud to tell that **we are professionally recognized for our niche among all the professionals not only in India, but even abroad.** Nation building refers to government policies that are designed to encourage a strong sense of national identity. The motto on our emblem of our Institute itself says about us – "**Ya esha supteshu jagarti**" which means, a Chartered Accountant is the one who stays awake or is knowledgeable amongst the others who are sleeping or are ignorant.

As a Chartered Accountant, **we act as soldiers to safeguard the financial resources of our nation.** So it is our first and the foremost duty to work diligently while performing our day to day work, whether it is an attestation work, tax consultancy or educational or teaching field.

Having worked as an auditor for around 35 years, I would specifically like to underline the role of an auditor here. During the last 15 years or so, we have seen a few major corporates getting completely shattered, which could have been prevented, if their auditors had carefully and honestly done their task before signing off. That is the reason why normally all the stakeholders religiously rely on the auditor's report. Along with the corporate money, there are innumerable investors whose interests are involved with the proper functioning of the businesses.

Rather, it goes without saying that, by working honestly and giving our best everyday at our work place, **we are helping to protect our nation's economic and financial resources.**

Corruption is one more issue which affects our economy. Chartered Accountants have an important role to play by advising on the right ways of handling money matters and creating an awareness in the society about the consequences of following wrong practices.

We, as women Chartered Accountants have a dual responsibility. As we all know, at times, it is extremely challenging to maintain the balance between work and life. But in the long run, you can always have an upper hand with your proficiency at work as well as your important role in upbringing your kids who are the future of our nation.

Recently, honorable President of India, **Shri. Ramnath Kovind** graced the launch of Platinum Jubilee celebrations of our Institute and commented that being facilitators of tax payers and of the taxation systems as well as the watchdogs of public trust, **C.A.s have a key role to play.**

Indian accountancy profession is spreading along multiple tangents with broadening the profession. Apart from the traditional areas of accounting, auditing and taxation work, we can concentrate now on specialized areas like GST implementation, Indian Accounting Standards converged with IFRS, Insolvency and Bankruptcy Code, 2018, forensic audit, systems audit, government accounting, valuation and so on.

The goal is to contribute towards the development of our nation.

Empowering the economy and extending full support to the measures and initiatives of the Government, we as Chartered Accountants play an important role as a partner in nation building.

In the wake of the recent happenings at our border areas, I would like to draw your attention to an important issue. I request everybody to **donate generously to National Defence Fund** or a similar fund. We all know, donations to this fund are **eligible for 100% deduction** u/s 80G of the Income Tax Act, 1961.

Particularly, **all the tax professionals should advise their clients** who will now approach to their consultants for making investments before the end of the financial year or even before Advance Tax due date.

We can definitely spread a word about it and get maximum contribution for this noble cause of the nation. I also give the link below to enable the prospective donors to contribute. –
www.ndf.gov.in

I myself have donated as per my capacity. I request you once again to donate and also **forward this message further.**

Before I end up, I would like to share one of my dreams, with you.

It was a pleasure watching our honorable External Affairs Minister Sushama Swaraj addressing at the meeting of Foreign Ministers at the Organization of Islamic Cooperation (OIC) and other international forums, making a strong pitch against terrorism. It is also great to see honorable Defence Minister Nirmala Sitharaman gracing the role. Likewise, it won't be an exaggeration if I eagerly await to see the country's first lady Finance Minister. A lady Finance Minister will definitely take care of the Budget of our nation in a better manner. I am sure it would be surely a step forward towards nation building.

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