



**NAGPUR BRANCH OF WIRC OF ICAI**



# **MONTHLY E-NEWSLETTER**

**AUGUST 2023**

**“विद्या”**



**The Institute of Chartered Accountants of India**

**(Set up by an Act of Parliament)**

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## **Chairperson's Message**

Dear Professional Colleagues,

**The Success of Team Work-  
Coming Together is a beginning,  
Staying together is progress,  
And working together is success.**  
-Henry Ford

We always need a good company to perform our tasks well. It's not the number of persons which matter more. It's the integrity as well as commitment and the most important belief in each other which brings the success.

**CA** stands for **Alphabets of trust**. There is always a very small difference between what a person is capable of doing and what he or she actually does; and this difference can very well be covered with only three golden words which I have believed all throughout my life and that is "**Believe in Yourself**". For everything which we aspire for in our lives there are only two requirements and these are "**Hard Work**" and "**Perseverance**". Try and try till you succeed.

I believe that the month of July must have been very hectic yet fulfilling for all my professional brothers and sisters and all your works for tax return filing

must have been completed successfully. As the Chairman of the most dynamic Branch of ICAI, our focus has always been well defined and aimed towards member's knowledge upgradation along with educating and inspiring people associated with us. In this endeavor, we started activities for the month of August by organizing an Entrepreneurship development program under Finance & Tax Literacy drive initiative of ICAI, New Delhi. The topic of delivering on Entrepreneurship mindset was taken up by Vaishali Aparajit from Pune whereas topic of Tax planning & Finance management to grow your business was taken by Treasurer CA Swaroopa Wazalwar. A lot of changes were brought during the year by Finance Act'2023 on trusts. To clarify the doubts of members at large, a half day seminar was arranged for members with Topics like Taxation of trusts and Trust audit report which were very effectively deliberated by Senior Chartered Accountants Sudhir Baheti and young member CA Sagar Sharma. The Chief guest for the seminar was Past Chairperson CA Kirti Agrawal.

A lot has been said, read and discussed amongst the general public about the growing importance of Artificial Intelligence and requirement of automation in our daily activities. To discuss on the same CA Kashmira Nirmal gave a fantastic presentation on Opportunities in Automation, AI and Payroll which almost changed the mindset of members and helped them to prepare mentally for the challenges ahead. We have guided further by Chief guest for this important session Past Chairman CA Sameer Bakre.

For every member, "Nation First" is the right word and as Partner's in Nation Building, we fulfil all over duties and contribute immensely towards the economic development of our country. The joy of "Independence Day" celebration was doubled with a patriotic presentation by CA Students of Nagpur. The event was graced by the presence of Hon. Past President ICAI CA Jaydeep Shah and many Past Chairman's along with members at large.

A need of the hour workshop on Direct Taxes organized by Direct Taxes



## **Chairperson's Message**

Committee, ICAI and hosted by Nagpur Branch was widely attended and appreciated by members at large. With the presence of Chairman of Direct Taxes Committee CCM CA. Sanjay Agrawal who updated on various initiatives of Direct Tax Committee for the benefit of members; the workshop was highly informative with deliberations from CCM CA. Pramod Jain on Capital Gain intricacies, CCM CA. Piyush Chhajed, Vice Chairman of Direct Tax Committee on reopening of assessment under Income Tax Act& CA Bhupendra Shah from Mumbai.

Nagpur Branch continued its activities aiming at knowledge upgradation by organizing various Career Counselling programs and inauguration of accounting museum at M K H Sancheti School and Raisoni College at the hands of spirited leader of WIRC Chairman CA. Arpit Kabra.

Team WICASA under the Chairmanship of dynamic leader CA Sanjay C. Agrawal continued with its various activities for the benefit of students. Quiz, debate and tree plantation

activities were the highlight for the month.

I congratulate and thank the contributors of this newsletter – CA. Ritesh Arora & CA. Akshay Gulhane for their excellent write up and talent which we feel proud to publish.

**I would appeal to all members to come forward as Speakers for any session or write an article for our Newsletter to showcase their talent and creativity.**

I am looking forward to getting a positive response from your side to ensure to stay connected through this newsletter and in all events to come. **It would be also our earnest duty to ensure that right from the senior most member to the youngest member of our branch feels at home whenever at Branch premises or at any event of the Branch. We will ensure that various Management seminars and workshops are organized for the benefit of the members to upgrade themselves as complete business solution provider.**

Take very good care of yourself and your family. I conclude with special lines for all of us-

**"Stop Expecting and start accepting.  
Life becomes much easier"**

Professionally Yours,

**CA Sanjay M Agrawal  
Chairperson,  
ICAI - Nagpur Branch of WIRC**



**CA. Amrita Bagdia**

Dear Professional Colleagues,

The month of July had been very hectic for all of us. Those of who were able to complete their tasks in time with a proper plan has big smiles whereas those who succumbed to the whims and fancies of delay documentation on part of Clients had a tough time. But every such experience gives us lesson to analyse our workings, shortcomings and changing our mindset as well as deciding on plans for next return filing season to improve so that professional delivery while maintaining optimum standards and ensuring full professional satisfaction can be ensured.

**The obstacles are many; it's only the mindset that helps one to overcome all issues in life. One needs to constantly work on relaxing mind while delivering under pressure. We would urge all members to avoid excess work pressure load and please take**

**proper care of your health while giving optimum time for yourself as well as your family and friends.**

**We firmly believe that Nagpur Branch has given a lot to the profession and has created a mark for itself over the years for providing selfless service.** As 'Partners in Nation Building', the Branch has and will continue to organize unique programs for the members of our institute so that each and every person feels proud of this institution.

**We as competitive professionals know that the only way to keep moving ahead is through the path of being proactive and to keep learning the new laws & regulations before anyone else and provide our services to the best of our belief in our knowledge, expertise and analyzing skills.**

We feel really privileged to be part of this knowledge Newsletter of Nagpur Branch and really



**CA. Palkesh Khandelwal**

congratulate all the Paper writers and contributors for their well written articles.

We sincerely appeal all respected members to share their articles and talent work for publishing in the coveted Newsletter of Nagpur Branch.

We would like to conclude by quoting-

**"We are what we repeatedly do. Excellence then, is not an act, but a habit"**

Warm regards

**CA Amrita Bagdia  
CA Palkesh Khandelwal**



## Professional Enrichment



### India's Leap towards Social Responsibility: The Social Stock Exchange

*CA. Akshay Gulhane*

#### A New Era of Impact Investing and Responsible Capitalism

In a ground-breaking move aimed at redefining the contours of responsible capitalism, India has taken a significant step forward with the launch of its Social Stock Exchange (SSE). This innovative platform, initiated by the Securities and Exchange Board of India (SEBI), holds the promise of revolutionizing the way businesses approach their social and environmental responsibilities.

#### A Paradigm Shift in Capitalism

The SSE, unveiled in early 2023, represents a significant shift in the world of finance. It transcends traditional stock exchanges by prioritizing social and environmental impact alongside financial returns. At its core, the SSE seeks to connect investors, including retail and institutional, with enterprises that are committed to making a positive difference in society.

#### Key Features of the Social Stock Exchange

**1. Impact Reporting:** One of the primary features of the SSE is the mandatory requirement for listed companies to provide comprehensive reports on their social and environmental initiatives. This transparency empowers investors to make informed decisions based on a company's track record in making a meaningful difference.

**2. Eligibility Criteria:** To be listed on the SSE, companies must demonstrate their commitment to social responsibility through measurable impact metrics. This includes areas such as poverty alleviation, education, healthcare, clean energy, and more. Stringent eligibility criteria ensure that only enterprises genuinely dedicated to positive change find a place on the exchange.

**3. Diverse Investment Options:** The SSE offers a wide range of investment opportunities, catering to the diverse interests and values of investors. Whether someone is passionate about environmental conservation or supporting under-

privileged communities, they can find investments aligned with their values on the SSE.

#### Benefits of the SSE

**1. Alignment of Values:** For socially conscious investors, the SSE offers a unique opportunity to align their investments with their ethical and moral values. This ensures that their financial portfolios reflect their commitment to positive societal change.

**2. Increased Accountability:** Companies listed on the SSE face heightened scrutiny regarding their social and environmental practices. This transparency fosters greater accountability and encourages businesses to actively contribute to social development.

**3. Long-Term Sustainability:** By emphasizing sustainable practices, the SSE encourages companies to focus on long-term success rather than short-term gains. This shift in mindset is vital for creating a more stable and equitable economy.



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**4. Innovation in Finance:** The SSE's launch underscores India's dedication to innovation in the financial sector. It is a testament to the country's desire to be a global leader in responsible capitalism and impact investing.

### Challenges and Opportunities Ahead

While the SSE represents a remarkable leap towards a more socially conscious financial system, it is not without its challenges. Developing standardized metrics for measuring social and environmental

impact, ensuring the credibility of impact reports, and fostering widespread awareness about the SSE are some of the hurdles that need to be addressed.

However, these challenges also present opportunities for growth and innovation. As the SSE matures, it has the potential to attract a growing number of investors and companies that are committed to driving positive change. It can also serve as a model for other nations looking to promote responsible capitalism.

### Conclusion

The launch of India's Social Stock Exchange is a momentous occasion in the global financial landscape. It signifies the growing importance of social and environmental responsibility in the world of business and investment. By offering a platform where profit and purpose coexist, the SSE paves the way for a brighter, more equitable, and sustainable future. It challenges businesses to think beyond profits and investors to consider the greater good, thus ushering in a new era of responsible capitalism in India and beyond.



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### **GST Case Law Compendium**

*CA. Ritesh Arora*

#### **1. Whether an appeal can be filed beyond the time period prescribed under section 107 (4) of the CGST Act?**

No, the Honorable Kerala High Court in **M/s Penuel Nexus Pvt Ltd. v. The Additional Commissioner (Appeals), Cochin [WP(C) No. 15574 of 2023 dated June 13, 2023]** held that the Additional Commissioner ("the Respondent") is right in rejecting the time-barred appeal as section 107 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") has an inbuilt mechanism and has impliedly excluded the application of the Limitation Act, 1963.

The Honorable Kerala High Court relied on the judgment of the Honorable Supreme Court in **Singh Enterprises v. Commissioner of Central Excise, Jamshedpur and others** [(2008) 3 SCC 70] wherein the court held that since there is complete exclusion of section 5 of the Limitation Act, therefore the Commissioner and the High Court were justified in holding that there was no power to condone the delay after the expiry of 30 days period. The Honorable Court held that the CGST Act is a special statute and a self-contained code and impliedly excluded the application of the Limitation Act, 1963 and further construed

that it is rudimentary that the provisions of a fiscal statute have to be strictly construed and interpreted. Thus, the Respondent is right in rejecting the time-barred appeal.

#### **Author's comments:**

This particular judgment by the Honorable court highlights the importance of procedures and timelines in the CGST Act. Appellate Authority u/s 107 (4) has power to condone the delay up to maximum of one month after the end of due date.

Limitations Act, 1963 states in section 5 and 14 that "sufficient cause" must be shown to justify the delay. In **Ramlal v. Rewa Coalfields Ltd.** Apex court has held that:

- (a) Non-filing of appeal within normal time allowed not questionable;
- (b) Every day of delay to be explained with affidavit;
- (c) Reasons cited verified and rejected if not found satisfactory; and
- (d) Condonation allowed by a speaking officer.

The principle of law is that when time to file appeal lapses, counterparty gets

a vested right (or advantage or benefits from such failure) which cannot be denied by condonation of appeal in a routine and mechanical manner without 'good and sufficient' reasons.

#### **Link to download the judgment**

<https://drive.google.com/file/d/10n7BowvrmH2ntkSk0KMQ3jGlto4cTaiD/view?usp=sharing>

#### **2. Whether the refund of ITC on account export of service can be withheld on the ground the Revenue intend to file appeal against the refund sanctioning order before GST tribunal which is not operative yet?**

No, The Honorable Delhi High Court in **Alex Tour and Travel Pvt. Ltd. v. Assistant Commissioner, CGST [W.P.(C) NO. 5722 OF 2023 dated May 8, 2023]** directed the Revenue department to disburse the assessee's refund claim along with interest as payable and held that, the Revenue cannot withheld assessee's refund merely on account that it intends to file appeal before the GST tribunal that to when the Tribunal is not constituted.

The Honorable Delhi High Court noted that the Revenue Department is



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entitled to file an appeal under Section 112 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") however, the said appeal is required to be filed within a period of three months. The said period has been extended as the Appellate Tribunal has not been constituted as yet.

Further noted that, it was important to note that more than one year had passed since the Order in Appeal had been pending while another Order in Appeal had been pending for nearly for ten months and as result the Petitioner is entitled to receive interest in accordance with the law.

The Honorable Court stated that the Revenue Department cannot ignore the order passed by the Appellate authority mainly on the ground that it proposes to file an appeal and allowed the Appeal of the Petitioner.

### **Author's Comment:**

Very rightly the Honorable Delhi High Court has allowed the appeal of the petitioner. Similar judgments were passed by the Honorable Delhi High Court in case of *Brij Mohan Mangla v. UOI [W.P. (C) 14234/2022 dated February 23, 2023]*, when it was held that OIA cannot be ignored by the Respondent solely because according to them, the OIA is erroneous and is required to be set aside.

All the procedures laid down in the statute must be followed strictly and in the instant case, withholding refund does not make any sense because if GST tribunal rules in the favor of the department, then tax can be demanded along with interest.

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[view?usp=sharing](https://drive.google.com/file/d/1O_R2IvdBZwAt1ZnaXdziSNqDpJ_imAbT/view?usp=sharing)

### **3. Whether Revenue Department can seize cash during the inspection?**

No, The Honorable Kerala High Court in *DhanyaSreekumari v. State Tax Officer (IB) [WP(C) No. 21772 of 2022 dated June 27, 2023]* held that cash not being a stock-in-trade of the assessee, was not a thing that ought to have been seized and directed the Revenue Department to release the cash seized to the assessee.

The Honorable Kerala High Court observed the contention of Revenue Department that, the word 'things' in Section 67(2) of the CGST Act will include cash also and hence the seizure of cash was very much in accordance with the law and opined that, cash not being a stock-in-trade of the Petitioner, was not a thing that ought to have been seized, and the seizure was one year back, so there is no reason to retain it any further.

The Honorable court directed the respondent to release the cash seized from the Petitioner.

### **Author's Comments:-**

It is important to note that even cash must be 'secreted' to qualify for seizure but, more importantly, cash is not 'goods liable to confiscation' under section 130(1) but are 'things' which are considered "useful or relevant" by the Authorized Officer to carrying out "any further proceedings". What, therefore, can be the 'use or relevance' of cash to be seized?

There is a popular, mysterious, and erroneous understanding that 'cash' is illicit if discovered in search proceedings. Officers tend to seize cash without

even ascertaining to whom it belongs. 'Cash' seizure does not directly point to proceeds from unaccounted sales. That would have been easy but the Legislative wisdom is that (i) 'Evasion of tax is a must for proceedings under section 67 to be with the jurisdiction and lawful and (ii) No presumption flows in favour of the Revenue, especially, when cash may be treated to be 'things' and not 'consideration from supply'. After all, 'things' seized can only be if they are "useful or relevant" for that Authorized Officer in carrying out "any further proceedings".

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### **4. Whether the provisions of Section 16(4) prescribing the time limit for claiming IT under section 16(4) of the CGST Act, ultra virus?**

No, the Honorable Andhra Pradesh High Court in *ThirumalakondaPlywoods v. The Assistant Commissioner [W.P.No.24235 of 2022 dated July 18, 2023]* held that, mere acceptance of GSTR-3B returns with late fee will not exonerate the delay in claiming Input Tax Credit ("ITC") beyond the period specified under section 16(4) of the Central Goods and Services Tax Act, 2017 ("the CGST Act").

The Honorable Andhra Pradesh High Court observed that Section 16(2) of the CGST Act has no overriding effect on Section 16(4) of the CGST Act as both are not contradictory with each other, they will operate independently.

The Honorable Court opined that mere acceptance of Form GSTR-3B returns with late fee will not exonerate the delay in claiming ITC beyond the period specified under section 16(4) of



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the CGST Act and the time limit prescribed for claiming ITC under section 16(4) of the CGST Act is not violative of Articles 14, 19(1)(g) and 300-A of the Constitution of India.

### **Author's Comments:**

The Honorable Andhra Pradesh High Court explicitly held that ITC under GST law is a concession/benefit, not a statutory right. Thus, the legislature can impose conditions. Currently, the law allows claiming ITC until November 30 after the end of the financial year or furnishing the relevant Annual Return. The Honorable Andhra Pradesh High Court upheld the validity of this timeline. Further, both Section 16(2) & 16(4) of the CGST Act will operate independently.

Thus, taxpayers are advised to ensure timely availing of credits. However, the Honorable Andhra Pradesh High Court has not struck down any central law. Therefore, the judgment is binding in the relevant state only. In other states, it only has a persuasive value as several writ petitions are pending in various other High Courts.

<https://drive.google.com/file/d/17EquU3lCXLkNovAQNwdAy6pzGZa2tJFd/view?usp=sharing>

### **5. Whether the amount collected at the time of search by the Revenue Department should be refunded?**

Yes, The Honorable Punjab and Haryana High Court in **William E Connor Associates and Sourcing Pvt Ltd. and Anr v. Union of India and Others** [C.W.P-733 of 2021 dated May 04, 2023] held that amount collected without authority of law at the time of search should be refunded along with the interest @ 6% p.a. from the date of

filling this petition, within 30 days after the receipt of certified copy of order.

The Honorable Punjab and Haryana High Court noted that the Respondent is in process to issue notice under section 74(1) of the Central Goods and Services Tax Act, 2017 ("the CGST Act") but till the date no notice has been issued to Petitioner imposing the penalty or raising any demand.

The Honorable Court relied upon the judgment of **Union of India and others vs. Bundl Technologies Pvt. Ltd and others** [ILR 2022 Karnataka 3077] wherein the Karnataka High court held that any amount deposited voluntarily by the Petitioner during search would not amount to collection of tax under Article 265 of the Constitution of India and amount collected without authority of law, would not amount to collection of tax and the same would amount to depriving a person of his property without any authority of law and would infringe his rights under Article 300A of the Constitution of India.

Further held that the Respondent had failed to place any material record to show that they got deposited amount of INR 83,89,196 from the Petitioner with any authority of law and allow the refund along with interest @6% p.a. from the date of filling of this petition, within the period of 30 days after the receipt of certified copy of order.

### **Author's Comments:**

This is an applaudable judgment by the Honorable Court as the proper officer is duty-bound to issue acknowledgement, accepting the payment made by any taxpayer (in Form DRC-03) in Form DRC-04. However, if, neither DRC-04 is issued nor any notice is issued pursuant to the proceedings u/s

67 acknowledging the voluntary payment, it is a gross violation of administrative instructions by the board and the provisions of Rule 142 (2) of the Central Goods and Services Tax Rules, 2017.

If the taxpayers are encountering any such situation, it is highly advisable to file a refund application u/s 54 for the amount deposited through DRC-03 as excess payment of tax.

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### **6. Whether the provisional attachment of bank account is to be lifted up after one year?**

Yes, the Honorable Bombay High Court in **Bharat Parihar v. State of Maharashtra Thr. PP Office and Ors.** [Writ Petition No. 3742 of 2023 dated June 30, 2023] set aside the provisional attachment order and held that the provisional attachment order is not valid after one year.

The Honorable Bombay High Court observed that the Respondent has failed to show that the order was passed and served on the Petitioner, much less prior to the provisional attachment order ceased to operate by virtue of Section 83(2) of the CGST Act and the communication dated April 19, 2023, furthermore no fresh order had been passed by the Respondent to attach the Petitioner's bank account on April 19, 2023.

The Honorable Court opined that the noting in the file of the Respondent could not constitute an order without a formal order, as the law may mandate, being passed and being communicated to the affected person, whose bank account was attached and held that the



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communication dated April 21, 2022, for provisionally attaching the bank account of the Petitioner was illegal and invalid as per Section 83(2) of the CGST Act.

### Author's comments:

Section 83(2) of the CGST Act, 2017 expressly provides that such provisional attachment of any property, including a bank account to protect the interest of the revenue, after the initiation of proceedings under Chapter XII, XIV or Chapter XV shall cease to have effect after the expiry of the period of one year from the date of the order made.

These are preemptive and emergency powers and must be exercised strictly in accordance with the law. Post expiry of one year period, this turns out to be institutionalized theft, and passion to protect the revenue does not authorize by passing the law.

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### **7. Whether the taxpayer should pay taxes along with interest due to the supplier's error in GST reporting?**

No, The Honorable Madhya Pradesh High Court in **Agrawal and Brothers v. Union of India [Writ Petition No.14297 of 2020 dated June 13, 2023]**, while allowing the claim, held that the taxpayer paid tax but his supplier inadvertently deposited the amount of GST in the wrong GSTIN. The Court further noted that it is a settled law that no one can't be made to suffer for the fault of another.

The Honorable Madhya Pradesh High Court stated that the taxpayer should not suffer due to a supplier's error in GST reporting and directed that the Railway Department can seek a refund, as the Revenue Department has received the amount of tax contained in ITC twice.

Further, held that, the Petitioner may seek refund from the Railway department.

### Author's Comment:-

This is an applaudable judgment delivered by the Honorable Madhya Pradesh High Court and its important one in the context of GSTR-2A vs. GSTR-3B mismatch notices- CBIC has issued circular No. 183/15/2022 dated December 27, 2022 to give relief to the taxpayers in the context of same subject matter. This judgment will allow all the taxpayers to seek refund, where the tax has been paid twice and the government cannot tax on the same transaction twice (Article 265 of The Constitution of India).

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### **8. Whether the Revenue can issue SCN without offering opportunity of being heard?**

No, The Honorable Allahabad High Court in the case of **Mohini Traders v. State of U.P. [WRIT TAX No. 551 of 2023 dated May 3, 2023]** had set aside the order and held that assessee is not required to request for opportunity of personal hearing since, it is a compulsion on the Assessing Authority to provide opportunity of being heard before passing an adverse order.

The Honorable Allahabad High Court noted that the stand of the Petitioner may remain unclear unless minimal opportunity of hearing is first granted and directed to issue a fresh SCN to the Petitioner within a period of two weeks.

The Honorable Court observed that the opportunity of being heard is a must and the principle of natural justice would commend to the Court to bind the authorities to always ensure and provide such opportunity of hearing and held that, not only such opportunity would ensure observance of rules of natural of justice but it would allow the authority to pass appropriate and reasoned order as may serve the interest of justice and allow a better appreciation to arise at the appeal stage.

### Author's Comments

This is a welcome decision by the Honorable High Court of Madhya Pradesh and it comes to the rescue of the taxpayer and once again the Rule of Land stands tall against the over-passionate administration.

The Revenue Department has to understand that this kind of approach renders the "due process" laid down in the statute "Superfluous, unnecessary and nugatory", which is impermissible in the law.

Similar judgment were passed in case of **Bharat Mint & Allied Chemicals v. Commissioner of Commercial Tax, 2022 (59) G.S.T.L. 394 (All.)**, wherein the Honorable Allahabad High Court held that opportunity of hearing has to be granted by Revenue Department either on request of the person chargeable with tax for the opportunity of hearing or where any adverse decision is given against such person. The Court observed that the SCN failed to provide



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the opportunity for a personal hearing before passing the Impugned Order and noted that, so far the argument raised by the Revenue Department regarding the availability of the alternative remedy of appeal, is concerned, it is well settled that when due opportunity of hearing, as required under the law, has not been afforded and the principle of natural justice has not been followed, then the question of availability of alternative remedy does not come in the way.

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### 9. Whether goods can be released by furnishing a bank guarantee and conveyance by paying the required penalty?

Yes, The Honorable Gujarat High Court in **Ravi Trading Co. v. Deputy Commissioner of State Tax [SCA no. 6407 of 2023 dated May 4, 2023]** directed the Revenue Authority to release goods on conditions that the assessee deposits a certain amount of penalty towards tax in lieu of confiscation of conveyance and furnish bank guarantee in lieu of confiscation of goods. The Honorable Gujarat High Court directed that the goods of the Petitioner as well as vehicle will be released subject to the following conditions:

§ The Petitioner must pay a penalty of INR 93,750 to the authorities as the tax remains unassessed.

§ The Petitioner should provide a Bank Guarantee of INR 19,68,750 as a fine in lieu of confiscating the goods.

§ Additionally, the Petitioner must

deposit INR 93,750 as a fine instead of confiscating the conveyance.

§ Held that, the goods and the vehicle both shall be released by the authority. Further, non-compliance with any of the aforementioned conditions by the Petitioner, shall render the interim relief granted earlier being revoked.

Further, the Honorable Gujarat High Court tagged the present Petition with **Special Civil Application No. 8353 of 2022**.

#### **Author's Comments:**

This is a welcome judgment by the Honorable Gujarat High Court. Proceedings u/s 130 of the GST Act is not emergency Proceedings like u/s129.

The taxpayers are entitled to seek provisional release in form GST INS-04 under section 67(6) read with rule 140. There is no reason with the department to deny request for provisional release provided taxpayer is willing to execute bond and furnish security. Once the form INS-02 is issued, taxpayer may immediately request the proper officer to grant provisional release in form GST INS-04.

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### 10. Whether furnishing bank guarantee is required for seeking bail?

No, The Honorable Supreme Court in **MakhijaniPushpakHarishv.The State ofGujarat [SLP (CRL.) No. 2868 of 2023 dated April 19, 2023]** set aside the order passed by the Superintendent which was modified by the Honorable Gujarat High Court directing the assessee to furnish bank guarantee for

bail.

The Honorable Supreme Court observed that, the condition of furnishing bank guarantee has been held bad in multiple cases by the Honorable Supreme Court and Referred the case of **SubhashChouhan v. Union of India Criminal appeal No. 186 of 2023**, wherein the Honorable Supreme Court has set aside the order passed by the High Court imposing the condition of pre-deposit while granting bail to the assessee.

The Honorable Court noted that the view taken in the SubhashChouhan (supra) has been reaffirmed by Honorable Supreme Court in another case, **AnatbhaiAshokbhai Shah v. State of Gujarat &Ors.**

[https://drive.google.com/file/d/1uW\\_O\\_o-3KSxC6bLmL9aUfYnUbDW6ea24wi/view?usp=sharing](https://drive.google.com/file/d/1uW_O_o-3KSxC6bLmL9aUfYnUbDW6ea24wi/view?usp=sharing)

### 11. Whether the Petitioner can file rectification application even in case where he has not co-operated with Assessing officer for assessment?

No, the Honorable Madras High Court in **Seoyon E-Hwa Summit Automotive India (P.) Ltd. v. Deputy Commissioner (ST)-I [W.P. Nos. 16535 & 16538 of 2023 dated June 6, 2023]** held that rejection of rectification application filed under section 161 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") is justified as the assessee has not cooperated with the Assessing Officer during the assessment.

The Honorable Madras High Court observed that the revenue department enumerates various opportunities to the Petitioner to supply the break-up of the ITC claimed and the reconciliation and notes non-compliance with those



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directions and the Petitioner had not cooperated in proceedings for assessment leaving the revenue department no choice but to complete assessment on basis of available materials and without any explanations for his benefit.

The Honorable Court held that, it is not for the Petitioner who has not made even a solitary attempt to cooperate or assist in the assessment proceedings to lay the blame at the doorstep of the revenue and dismissed the Writ Petitions.

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### 12. Whether denial of cross-examination of witnesses was violative of principles of natural justice?

Yes, The CESTAT, Ahmadabad in **M/s Indu Overseas Pvt. Ltd. v. Commissioner of Central Excise & ST, Rajkot [Excise Appeal No. 12085 of 2013-DB dated June 26, 2023]** remanded the order passed by the Adjudicating Authority and held that denial of cross-examination of witnesses is violative of principles of natural justice.

The CESTAT Ahmedabad observed that the Order in Original passed without providing opportunity of cross-examination of witness whose statement have been used as evidence and relied upon by the authorities.

The CESTAT relied on its own judgment in the case of **Patidar Products v. CCE & ST [Appeal No. E/11756/2017 dated October 18, 2022]** wherein it held that denial of cross-examination and non-production of witnesses for cross-examination was violative of principles of natural justice.

The CESTAT held that the adjudication order passed without allowing cross-examination is an act of gross violation of natural justice and set aside the SCN and the Impugned Order and remanded back the matter to the Adjudicating Authority for passing a fresh order after allowing the opportunity for cross-examination of the witnesses.

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### 13. Whether the unregistered person can claim refund of GST on cancellation of purchase of flat for the period when there was no policy related to refund for unregistered person?

Yes, The Honorable Bombay High Court in **C.P. Rabindranath Menon v. Deputy Commissioner of State Tax [Writ Petition No. 5131 of 2022 dated April 21, 2023]** set aside the order rejecting the refund claim filed by the unregistered person pursuant to agreement for purchase of residential flats and held that the Petitioner should be given opportunity for reconsidering their claim for refund and restored the refund application before the Deputy Commissioner of State Tax for decision.

The Bombay High Court noted that the policy governing the application of refund by unregistered person came after the Petitioner filed the refund application and opined that, an opportunity needs to be given to the Petitioner for reconsideration of their claim for refund and entitlement of refund will be decided on merits by the Deputy Commissioner of state tax, after giving adequate opportunity of hearing to the Petitioner.

### Author's Comments:

In the GST regime, the CBIC vide **Circular No. 188/20/2022-GST dated December 27, 2022**, has provided relief to unregistered persons by prescribing a manner of filing an application for refund of GST paid to real estate developer(s) in the event of cancellation of the contract on account of non-completion/delay in construction activity or due to any other reason.

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### 14. Whether an order passed by the Adjudicating Authority before the dates provided for filing the reply and personal hearing is violative of the principles of natural justice?

Yes, The Honorable Allahabad High Court in **Sunil Enterprises v. Commissioner Commercial Tax [Writ Tax no. 730 of 2023 dated May 29, 2023]** set aside the order passed by the Adjudicating Authority and held that once the dates have been fixed and communicated to the assessee for the purpose of filing of written reply and for the purpose of oral hearing then no adjudication order could be passed before the dates have passed.

The Honorable Allahabad High Court observed that the Impugned Order had been passed much before the arrival of the dates of reply and personal hearing which was not permissible neither on the basis of principles of natural justice nor Section 75(4) of the Central Goods and Services Tax, Act, 2017 ("the CGST Act")

The Honorable Allahabad High Court set aside the Impugned Order and the matter is remitted to the Adjudicating Authority to pass fresh order strictly in accordance with law after providing



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adequate opportunity of hearing to the petitioner.

### Author's Comments

The department has to ensure robust training and must enforce a system to track the quality of orders passed by the adjudicating authorities.

Section 75(4) expressly provides for granting of personal hearing before an adverse order.

In author's opinion, even providing personal hearing along with the SCN, shows presumption in the mind of adjudicating authority to be adverse order without going through the reply to be submitted by the taxpayer.

Such kind of adjudication is a waste of limited national resources (time and cost).

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### **15. Whether the Petitioner is liable to deposit the tax demand if the tax was entirely paid and the Appellate Tribunal is not yet constituted?**

No, The Honorable Orissa High Court in **Nalinikanta Barik v. Commissioner of CT & GST [W.P (C) NO. 15244 of 2023 dated May 15, 2023]** held that if the deposit of tax had been already made and the Appellate Tribunal is not yet constituted then the rest of the demand shall remain stayed.

The Honorable Orissa High Court observed that the Petitioner wanted to avail the remedy under the provisions of law by approaching the Appellate Tribunal which is not yet constituted and held that, as an interim measure, if

the deposit of tax has been already made and the Appellate Tribunal is not yet constituted then the rest of the demand shall remain stayed during the pendency of the writ petition.

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### **16. Whether the Appellate Authority can issue order beyond the allegations mentioned in the SCN?**

No, The Honorable Calcutta High Court in **Earthmark Traders v. Joint Commissioner, State Tax, Chinabazar & Rajakatra Charge & anr. [MAT 791 of 2023 dated May 12, 2023]** set aside the order passed by Appellate Authority and held that the Appellate Authority cannot travel beyond the allegations made in the Show Cause Notice ("the SCN").

The Honorable Calcutta High Court observed that the Appellant Authority will take into account the complete submission made by the Appellant, including the documents submitted in response to the Memo.

The Honorable Calcutta High Court noted that the Appellant Authority will provide the Appellant with an opportunity to provide further clarification regarding the allegations stated in the Impugned SCN and submit additional supporting documents and a chance for a personal hearing will be granted to the authorized representative of the Appellant and Held that the Appellate authority should not have travelled beyond the allegation of the SCN as, the SCN itself is defective on account of non-consideration of the submissions made by the Appellant to the Memo.

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### **17. Whether the Appellant is liable to pay interest on the amount of differential duty paid which is available as CENVAT Credit to the Appellant's Sister Concern?**

No, The CESTAT, Kolkata in **M/s Jai Balaji Industries Limited v. Commissioner of Central Excise, Bolpur [Excise Appeal No. 552 of 2011 dated June 22, 2023]** set aside the order confirming interest on differential duty and held that where the differential duty paid by the assessee is available as CENVAT credit to the Assessee's sister concern then it is a revenue-neutral situation. Thus, as duty was not actually payable, the payment of interest does not arise in the case of revenue neutral situation.

The CESTAT, Kolkata noted that the Appellant was not liable to pay duty as per the terms of Rule 8 of the Excise Rules and relied on the judgment of the Honorable Gujarat High Court in **CCE & C v. Gujarat Narmada Fertilizers Co. Ltd. [[2012 (285) ELT 336 (Guj.)]** wherein the court held that if the Appellant was not liable to pay the duty, then no interest would be payable by the Appellant.

Further observed that the criterion laid down by the CESTAT, New Delhi for determining a revenue-neutral situation in the case of **Jai Yuhshin Ltd. v. Commissioner of Central Excise, New Delhi [2000 (39) RLT 501]** was fulfilled by the Appellant and further relied on the judgment of the Honorable Gujarat High Court in **CCE & C. v. Indeo Abs Ltd. [2010 (254) ELT 628 (Guj.)]** wherein the court held that in case the sister concern was eligible for Modvat Credit on the goods cleared



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then the whole exercise would be construed to be revenue neutral.

The CESTAT held that, it was a revenue-neutral situation, no duty is to be paid by the Appellant and therefore no question of payment of interest arises and Set aside the impugned orders.

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### 18. Whether the Provisional Attachment can be lifted as assessee agreed to pay tax liability in installments?

Yes, The Honorable Gujarat High Court in **NirajkumarNareshkumarLakhyan v. State of Gujarat** [Special civil application no. 6777 of 2023 dated April 27, 2023] set aside the order of Adjudicating Authority and allowed the assessee to make payment of tax liability in installments and thereby lifted the provisional attachment of bank account of the assessee.

The Honorable Gujarat High Court observed that the Petitioner has expressed his willingness to pay the demand raised by the Adjudicating Authority within span of 15 equal monthly installments and held that the attachment of the current bank account of the Petitioner shall be lifted forthwith.

### Our Comments:

Similar judgment was passed, the Honorable Kerala High Court in the matter of **Pazhayidom Food Ventures (P) Ltd v. Superintendent Commercial Taxes** [WP(C). No. 14275 of 2020 dated July 24, 2020], cases like these must not have reached Honorable courts and the commission u/s 80 of the act has power

to allow time for the payment of tax and other amounts in installments.

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### 19. Whether the Applicant is liable to reverse the ITC proportionately to the extent of financial/ commercial credit note issued by the supplier?

No, The AAR, Andhra Pradesh, in the matter of **Vedmutha Electricals India Pvt. Ltd. [Advance Ruling no. 05/AP/GST/2023 dated May 26,2023]** ruled that assessee is eligible to take full credit of GST charged in invoice issued by the supplier even though later commercial/financial credit note has been issued.

The AAR, Andhra Pradesh observed that the provisions of section 15(3)(b) of the CGST Act can only be applicable if there was a prior agreement and a link is established between the relevant invoices and the discounts provided. In this case, no such correlation was found between the credit notes issued by the supplier and the Applicant. As a result, the benefit of reducing the value of the discount from the transaction value, as per the provisions of section 15(3)(b), was not allowed.

The AAR noted that the financial credit note should not be used as a means of fraudulently transferring ITC by inflating an invoice and held that the post-supply discount received by the Applicant from the supplier did not impact the transaction value between the parties. Therefore, the Applicant is eligible to take full credit of the GST charged in the tax invoice and was not required to reverse the ITC to the extent of the financial or commercial credit notes issued by the supplier.

### Author's Comments:

Similar to the above ruling the AAAR, Tamil Nadu in **Re: M/s. MRF LTD. [2019 (27) G. S. T. L. 578 (App. A. A. R. - GST)]** ruled that, in case of financial/commercial credit note which is only adjustment of commercial transaction, no GST impact is there. Thus, there is no need of reversal of ITC by the buyer.

Therefore, the buyer is eligible to take full credit of GST charged in the tax invoice issued by the supplier, even if a financial/ commercial credit note is issued later, subject to the condition that there is no mis-utilization of financial/ commercial credit note.

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### 20. Whether the Respondent is liable to pay penalty on account of suppression fact by relying on the judgment which was later overturned by higher authority?

No, The Honorable Supreme Court in **Commissioner of Central Excise and Service Tax v. M/s Reliance Industries Ltd. [Civil Appeal No. 6033 of 2009 dated July 04, 2023]** held that the assessee was bonafide and has correctly discharged duty liability by relying on the CESTAT decision even though the same was later overturned by the Honorable Supreme Court.

The Honorable Supreme Court noted that the Respondent has self-assessed the liability on the assessable value on the basis of an interpretation given by the CESTAT in its order in the case of IFGL Refractories Ltd.

Further observed that the Respondent had communicated to the Revenue Department about their pricing policy



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by giving separate letters, which holds a bonafide belief that the Respondent has correctly discharged the liability and opined that the mere fact that the belief was ultimately found to be wrong by the judgment IFGL Refractories Ltd, does not render the belief malafide, more particularly when such a belief was originate from the view taken by a division bench of the CESTAT.

The Apex Court clarified that the term "suppression of facts" should not be interpreted as a mere act of omission. It should be considered a deliberate act of non-disclosure aimed at evading duty. The Honorable Court held that the Respondent's conduct during the period 2000 to 2005, of not including the monetary value of the duty benefits in assessable value, could not be considered to be malafide when it merely followed the view taken by the Tribunal.

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**21. Whether the Petitioner is required to pay additional 20 per cent of interest liability as deposit for availing stay order?**

No, The Honorable Calcutta High Court in **Liakhat Ali Mallick v. State of West Bengal** [M.A.T. NO.823 of 2023 dated June 16, 2023] set aside the order of the Single Bench directing the assessee to deposit 20 per cent of the interest liability and directed the Appellate Authority to consider the appeal of the assessee on merits and held that, condition of deposit of 20 per cent need not be imposed since the same is not statutory requirement.

The Honorable Calcutta High Court

observed that single Bench has granted stay of the garnishee notice but has imposed a condition that the Petitioner has to deposit 20 per cent of the interest liability which was originally quantified as INR 31, 58,936, subsequently rectified as INR 29,85,527.

The Honorable Court held that the condition need not be imposed by directing the Petitioner to pay 20 per cent of the interest and allowed the appeal and set aside the order. Further, directed the Appellate Authority to consider the appeal on merits in accordance with law after affording an opportunity of personal hearing.

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**22. Whether Petitioner's Advocate can be present while interrogation during GST proceedings?**

Yes, The Honorable Bombay High Court in **ShriPrakash Kumar Ramesh bhai Patel v. State of Maharashtra** [Criminal Writ Petition no. 2053 of 2023 dated June 28, 2023] held that, the Petitioner's Advocate can remain present during the recording of the Petitioner's statement at a visible distance but not audible distance.

The Honorable Bombay High Court held that the Petitioner's Advocate is allowed to remain present at a visible distance, but not at an audible distance at the time of recording of the Petitioner statement.

### Author's Comments:

This is a welcome judgment by the Honorable High Court of Bombay, as per Article 20(3) and Article 22(1) of the Indian Constitution; an accused person

is entitled to presence of his Advocate during interrogation by a Police Officer. This position has been asserted without reservation in **NandiniSatpathy's case A.I.R. 1978 S.C. 1025**. Hence, an accused person during interrogation by a Police Officer is permitted the right to the presence of his Advocate.

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**23. Whether the rejection of appeal by the Appellate Authority, after generation of a new e-way Bill due to breakdown of vehicle within three minutes of interception, is valid or not?**

No, the Honorable Calcutta High Court in **M/s OFB Tech Private Limited v. State of West Bengal & Ors.** [WPA 1271 of 2023 dated January 24, 2023] has set aside the order passed by the Appellate Authority and remanded back the matter to Appellate Authority to pass a fresh speaking order after giving petitioners an opportunity of being heard, as the assessee had duly prepared the e-way bill within 3 minutes of the interception of the vehicle.

The Honorable Calcutta High Court observed that the Appellate Authority failed to properly take into account the petitioner's argument regarding the breakdown of the first vehicle and the generation of a fresh e-way bill for the same goods within three minutes after the second vehicle was intercepted. Further observed that, the rejection and dismissal of the appeal on this ground is overly technical in this particular situation and held that the Impugned Order should be set aside and the matter should be brought back to the Appellate Authority to pass a fresh



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speaking order after giving an opportunity of hearing to the petitioner or its authorized representative.

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### 24. Whether the penalty can be levied, in case e-way bill expires during the transit?

No, The Honorable Calcutta High Court in **Perfect Enterprise v. State of West Bengal [W.P.A. No. 532 of 2023 dated June 15, 2023]** set aside the penalty order passed by the Adjudicating Authority which was later upheld by the Appellate Authority and opined that, there is no penalty on the bona fide assessee if e-way bill gets expired while transporting goods.

The Honorable Calcutta High Court relied upon, Judgment of Calcutta High court in the case of **M/s Hanuman Ganga Hydro Projects Private Limited v. Joint Commissioner, State Tax Authority [WPA 1480 of 2022 dated July 6, 2022]** wherein court held that where assessee had no mala fide intention to evade payment of tax, the orders passed by the Appellate Authority and the penalty were all set aside and quashed.

The Honorable Court observed that there is no other allegation against the Petitioner as e-way bill gets expired due to a national holiday while transporting the goods then there is no wilful misconduct committed by the Petitioner and opined that the Petitioner may apply for refund before the Revenue Department.

Further, directed the Revenue Department to refund the penalty within 15

days from the date on which refund application filed by the Petitioner.

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### 25. Whether the Applicant is eligible to claim ITC of the inward supplies used in the construction of the warehouse?

No, The AAR, West Bengal, in the case of **Mindrill Systems and Solutions Pvt. Ltd. [TS-287-AAR(WB)-2023-GST dated June 06, 2023]** ruled that, Input Tax Credit ("ITC") cannot be claimed on construction of immovable property which is capitalised in the books of account.

The AAR, West Bengal observed that the Applicant has constructed the warehouse and capitalised the same in books of accounts and retains the ownership/ title of the said warehouse, thus it is clear that the warehouse has been constructed in the Applicant's own account and the contention of the Applicant in this regard is not acceptable.

Further observed that, the warehouse cannot be exempted from the definition of immovable property, this view is supported by the fact that the warehouse, despite being constructed of removable parts, is not meant to be relocated and has not really been moved after construction.

The AAR Held that, the Applicant is not eligible for ITC charged on inward supply of goods and services related to construction of warehouse which is capitalized in the books of account.

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### 26. Whether suppression of fact needs to be willful in order to attract penalty?

Yes, The CESTAT, New Delhi in the matter of **M/s. Mount Everest Breweries Limited v. Commissioner of CGST & Central Excise [Service Tax Appeal No. 50145 of 2019 dated July 03, 2023]** held that the assessee had not suppressed any facts and thus, extended period of limitation cannot be invoked. The CESTAT, New Delhi observed that section 73 (1) of the Finance Act does not mention that suppression of facts has to be 'willful' since the word 'willful' precedes only misstatement, therefore, it is to be seen whether even in the absence of the expression "willful" before the term "suppression of facts" under section 73(1) of the Finance Act, suppression of facts has still to be willful and with an intent to evade payment of service tax.

The CESTAT relied upon the judgment of the Honorable Supreme Court in the case of **Pushpam Pharmaceuticals Company [1995 (78) E.L.T. 401 (SC)]** wherein the court while dealing with the meaning of the expression "suppression of facts" held that the term must be construed strictly. It does not mean any omission; the act must be deliberate and willful to evade payment of duty.

The CESTAT stated that the Revenue Department had passed the order without examining the facts and a mere conclusion had been drawn that there was suppression of facts by the Appellant and the suppression was with an intent to evade payment of service tax and held that, the Impugned order holding that the extended period of limitation has been correctly invoked cannot be sustained and is set



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aside.

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**27. Whether ITC is admissible in respect of goods purchased from vendors in case payment is settled through book adjustment?**

Yes, The AAR, Kerala, in the matter of **Paragon Polymer Products Private Limited [Advance Ruling No. KER/03/2023 dated March 02, 2023]** ruled that ITC is admissible for goods purchased from outsourced vendors when the consideration is settled through book adjustment, subject to the conditions outlined in Sections 16, 17 and 18 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") and their corresponding rules.

The AAR, Kerala observed that the settlement of the mutual debts through book adjustment by the Applicant is a valid mode of payment of consideration for the receipt of goods and services since, it satisfies all the requirements and opined that the term consideration under the CGST Act, is has an inclusive definition which covers any form of payment, therefore if the payee owes the payer a debt, and accepts a reduction in such a debt liability as a valid form of payment, that should also be regarded as a valid 'consideration' for a supply.

The AAR held that the ITC is admissible when consideration is settled through book adjustment, subject to the conditions outlined in Sections 16, 17, and 18 of the CGST Act and their corresponding rules.

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**28. Whether renting of Immovable property in nature of sharing profit is liable for service tax?**

No, The CESTAT, Chennai in *M/S. Hotel Shreelekha Regency Limited [Service Tax Appeal No. 40073 of 2014 dated July 14, 2023]* set aside the order demanding service tax on rental property and held that, income received from rent by assessee is not subject to levy of service tax.

The CESTAT, Chennai relied upon the judgment of the Honorable Supreme Court in *Commissioner of Service Tax-1, Chennai Vs Grand Royale Enterprises Ltd. [2022(63) GSTL 412 (SC)]*, wherein the Court held that no service tax is liable for renting the property and this is untenable in law. Further held that the amount received is in the nature of sharing of profits and the same cannot be considered as rent received for renting / licensing of immovable property as the intention is not merely to permit the use of space and that the consideration is based on the annual sales.

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**29. Whether court vide writ petition can interfere with the statutory power of Revenue Authority by imposing conditions?**

No, the Honorable Supreme Court in *S t a t e o f G u j a r a t v . ChoodamaniParmeshwaranIyer&Anr . [SLP (Crl.) No. 4212-4213 of 2019 dated July 17, 2023]* set aside the order passed by the Honorable Gujarat High Court and held that power to arrest a

person by an empowered authority under the GST Act may be termed as statutory in character and ordinarily the high courts should not interfere with exercise of such power under writ jurisdiction.

The Honorable Supreme Court observed that, if any person is summoned under Section 69 of the CGST Act for the purpose of recording of his statement, the provisions of Section 438 of Criminal Procedure Code, 1908 cannot be invoked.

The Honorable Apex Court opined that the power of officers under the CGST Act to arrest a person could be termed as statutory in character and a writ court should not ordinarily interfere with exercise of such power.

The Honorable Court relied upon the Judgment of the Honorable Supreme Court in *Union of India v. PadamNarainAggarwal and Ors. (2008) criminal appeal No. 1575 of 2008* wherein the court observed that normally the court should not impose any condition before effecting arrest, if any conditions are imposed before effecting arrest for instance giving prior intimation to the person concerned etc., the statutory provisions would render ineffective and meaningless.

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**30. Whether the Applicant being a fair price shop is liable to charge GST from the state government against the supply made to them?**

No, The AAR, West Bengal, in the matter of *M/s. ChanchalSaha [Advance Ruling No.09/WBAAR/2023-24 dated June 26, 2023]* ruled that the assessee is



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supplying goods to ration card holder and not to State government and since, the recipient is ration card holder and not the state government thus, no tax will be charged from the State government.

The AAR, West Bengal observed that the Applicant is engaged in supply of kerosene Oil to the ration card holder and the Applicant is receiving monetary consideration against that supply of from ration card holder and no other monetary or non-monetary consideration is received for that transaction. Held that, since no supply was made to State government thus, no tax should be charged in accordance with Section 9 of the Central Goods and Services Tax Act, 2017 ("the CGST Act").  
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**31. Whether hostel accommodation provided by the Applicant to the students for residential purposes where charges are less than INR 1,000 per day during the period August 01, 2021 till July 12, 2022 is exempt from GST?**

Yes, the AAR, Uttar Pradesh, in the matter of *V S Institute & Hostel Private Limited [Advance Ruling No. UP ADRG 26/2023 dated May 08, 2023]* ruled that hostel accommodation charging less than INR 1,000 per day from August 2021 till July 18, 2022 is exempt from GST. However, from July 19, 2022 and onward the exemption longer applies, and the applicable GST rate is 12%.

The AAR, Uttar Pradesh observed that the nature of service has not changed from August 01, 2021 only the provider of services has changed because the map has been sanctioned by the Greater Noida Industrial Development Authority of Uttar Pradesh established in January 1991 under the UP Industrial Area Development Act 1976 for the residential as well as for commercial use and the Applicant has started to provide the hostel service directly to the students of educational institutions like GL Bajaj, Daron Acharya, GNIT, Sharda University, Amity University and several others from August 01, 2021 without charging GST, as students are residing for a fixed term on annual basis.

Further observed that, the word hostel

is not defined in GST. If the Government had intended to exclude hostel services, then it would have been excluded the same from the service exemption notification. As the word 'Hostel' is neither a new word nor uncommon word, thus it can be simply concluded that also the hostel accommodation services provided by Applicant falls under SAC Code 996322 as mentioned under the service exemption notification.

The AAR noted that through Notification No. 03/2022 Central Tax (Rate) dated July 13, 2022 w.e.f. July 18, 2022 amended Notification No. 11/2017 Central Tax (Rate) S. No. 7, by omitting the word 'above one thousand rupees but' making accommodation taxable @12% in case where unit accommodation per day is less than INR 1000 and held that the hostel accommodation services provided by the Applicant to the students for the period August 2021 till July 18, 2022 was exempt from GST. However, after July 19, 2022 the same was taxable @ 12% in case where charges were less than INR 1000 per day.

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# Glimpses of Past Events

## Circular/Activity

 The Institute of Chartered Accountants of India  
Nagpur Branch of WIRC of ICAI  
प्रदेशीय  
विभाग  
महाराष्ट्र  
राज्यालय

### Finance and Tax Literacy Drive ENTREPRENEURSHIP DEVELOPMENT PROGRAM

Date: Wednesday, 9th August 2023 | Time: 4 PM - 6 PM  
Venue: ICAI Bhawan, Dhantoli, Nagpur

#### Speakers

	Wasthi Aparajit Program Manager, Startup Foundation, Pune		CA. Savarkar Wazir Chartered Accountant
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Topic: Entrepreneurship Risks | Topic: Tax Planning & Finance Management to grow your business

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**Panel of Experts**

CA. Sanjay H. Agarwal Chairperson 09822 100000	CA. Mahesh Salunkhe Vice-Chairperson 09821 100000	CA. Sharad Rane Secretary 09822 090000	CA. Savarkar Wazir Treasurer 09820 100000	CA. Sanjay C. Agarwal Chairperson WIRC/CAI 09705 400000
CA. Jitendra Bagri Joint. Vice-Chairperson 09822 090000	Mr. Deepak Jadhav WIRC 09220 010000	CA. Alok B. Kulkarni WIRC 09824 010000	CA. Trupti Rane WIRC 09705 000001	CA. Mahesh Kulkarni WIRC 09221 000000

\*IACI Notice: 201, Bhawani, Nagpur (C. P.), 441002, Maharashtra, India. Website: [www.caicai.org](http://www.caicai.org)



 The Institute of Chartered Accountants of India  
Nagpur Branch of WIRC of ICAI  
प्रदेशीय  
विभाग  
महाराष्ट्र  
राज्यालय

### SEMINAR ON AUDIT & TAXATION OF TRUST

Thursday, 10th August, 2023 | Time: 05.00 pm to 08.00 pm  
Venue: ICAI Bhawan, Dhantoli, Nagpur | CPE: 3 HRS.



Dr. Biju Ajiwai  
Pan-Chartered, Nagpur Branch - ICAI India



Dr. Sudhir Patel  
Topic: Technical Audit



Dr. Rajesh Gavare  
Topic: Audit Report & Filing Procedure

Registration Fees: Rs. 200/- + GST  
Registration Link: <https://caicai.org/audit-of-trust-meet.aspx>  
The Programmes will be Followed by Dinner

**Panel of Experts**

CA. Sanjay H. Agarwal Chairperson 09822 100000	CA. Mahesh Salunkhe Vice-Chairperson 09821 100000	CA. Sharad Rane Secretary 09822 090000	CA. Savarkar Wazir Treasurer 09820 100000	CA. Sanjay C. Agarwal Chairperson WIRC/CAI 09705 400000
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# Glimpses of Past Events

## Circular/Activity

The Institute of Chartered Accountants of India  
Nagpur Branch of WIRC of ICAI

### SEMINAR ON OPPORTUNITIES IN AUTOMATION, AI, AND PAYROLL

DATE: 2 ND AUGUST 2023

Saturday, 12th August, 2023 | Time: 05.00 pm to 07.00 pm  
Venue: ICAI Bhawan, Dharmal, Nagpur

Chair Guest



CA. Sameer Dabre - Past Chairman, Nagpur Branch of ICAI

Guest



CA. Kavita Patel

Topic - Future of CA Profession: Opportunities in Automation, AI, and Payroll

- Key Trends in Accounting Profession
- Benefits of AI and Automation in Accounting
- New Opportunities for Accounting Professionals
- Preparing our Firm to Leverage the Technological Wave of the Future
- Utilizing Automation Tools for Growing Practice
- A Broad Look and Trend Automation Tools

Registration Fees: Rs. 200/- + GST  
Registration Link: <http://www.nagpuricai.org/2023/08/05/seminar/>  
The Programme will be Followed by Q & A

Chair & Vice-Chair

CA. Sameer Dabre	CA. Nitin Joshi	CA. Deepak Patel	CA. Umang Bhosale	CA. Nitin C. Agarwal
Chairman	Past Chairman	Secretary	Editor	Chairman WICASA
2023-2024	2022-2023	2022-2023	2022-2023	2022-2023
CA. Abhishek Joshi	CA. Deepak Joshi	CA. Arun P. Patil	CA. Umang Patel	CA. Anil Patel
Joint Secretary	Joint Secretary	Joint Secretary	Joint Secretary	Joint Secretary
2022-2023	2022-2023	2022-2023	2022-2023	2022-2023

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The Institute of Chartered Accountants of India  
Nagpur Branch of WIRC of ICAI  
& Nagpur Branch of WICASA

### Independence Day Celebration

Tuesday, 15th August 2023 | 9.00 am

Venue: ICAI Bhawan, Dharmal, Nagpur



Flag Hoisting

Chair & Vice-Chair

CA. Sameer Dabre	CA. Nitin Joshi	CA. Deepak Patel	CA. Umang Bhosale	CA. Nitin C. Agarwal
Chairman	Past Chairman	Secretary	Editor	Chairman WICASA
2023-2024	2022-2023	2022-2023	2022-2023	2022-2023
CA. Abhishek Joshi	CA. Deepak Joshi	CA. Arun P. Patil	CA. Umang Patel	CA. Anil Patel
Joint Secretary	Joint Secretary	Joint Secretary	Joint Secretary	Joint Secretary
2022-2023	2022-2023	2022-2023	2022-2023	2022-2023

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# Glimpses of Past Events

## **Circular/Activity**

The Institute of Chartered Accountants of India  
Chartered Accountants



# Glimpses of Past Events

## **Circular/Activity**



Carrer Counseling Program at  
City Premium College Nagpur



Carrer Counseling Program at  
Raisoni College College Nagpur



Inauguration of Accounting Museum at  
M.K. H. Sancheti Public School Nagpur



Inauguration of Accounting Museum at  
Raisoni College Nagpur

# Gist of Past Events

## Activity for Students - August 2023

Sr. No	Date	Programme Type	Topics	Speakers
1	07/08/2023 to 22/08/2023	Training Program	ICITSS ITT (Batch No.8)	
2	09/08/2023	WICASA	Quiz Competition	Quiz Master: Mr. Altamesh Khan Mr. Manak Laturia
3	09/08/2023	WICASA	Debate Competition	Judges: CA. Swapnil Agrawal Past Chairman CA. Amit Likka
5	11/08/2023 To 28/08/2023	Training Program	Adv ICITSS MCS (Batch No.7)	
6	12/08/2023	WICASA	Seminar on Opportunities in Automation, AI, CHAT GPT & Payroll	Chief Guest: CA Samir Bakre Past Chairman Speaker: CA Kashmira Nirma Bangalore
7	15/08/2023	WICASA	Independence Day Celebration 1. Flag Hoisting	At the hands of CA. Sanjay M. Agrawal Chairperson Nagpur Branch of ICAI
8	15/08/2023	WICASA	Tree Plantation Drive With the support of Nagpur Municipal Corporation Meri Mati Mera Desh	At the hands of CA. Sanjay M. Agrawal Chairperson Nagpur Branch of ICAI
9	17/08/2023 to 31/08/2023	Training Program	AICITSS Adv ITT (Batch No. 1)	
10	22/08/2023	WICASA	Seminar on Tax Audit SessionI Applicability of Tax Audit SessionII Related Party Transaction and Transactions Relating to Loan Deposits SessionIII Mastering Compliance, TDS, TCS, Ratio & GST	Chief Guest: CA. Sandeep Jotwan Past Chairman Nagpur Branch.  Speakers: CA. Ritesh Panpaliya CA. Govind Batra CA. Pawan Khabiya
11	23/08/2023 to 07/09/2023	Training Program	ICITSS OC (Batch No. 8)	
12	24/08/2023	WICASA	Joint Program of WIRC Chair with IGNOU University, Nagpur	Speaker: CA. Arpit Kabra Chairman WIRC of ICAI  Dr. Sasicoumar Brum Assistant Regional Director, IGNOU, Regional, centre, Nagpur  Mr. Rajesh Wasnik Assistant, IGNOU, Regional Centre, Nagpur

## टैक्स कलीनिक का आयोजन



नागपूर | अईसीएआई की डिव्ह्यूआईआरसी की नागपूर शाखा द्वारा टैक्स कलीनिक कार्यक्रम का आयोजन किया गया। कार्यक्रम का आयोजन धंतेली स्थित शाखा में किया गया था, जिसमें चार्टर्ड अकाउटेंट सीए सागर शर्मा और सीए विवेक जानी की विशिष्ट विशेषज्ञता शामिल थी। टैक्स कलीनिक कार्यक्रम में जटिल कर मामलों पर स्पष्टता चाहने वाले लोगों को महसूता मिली, उन्हें अध्यक्ष नियमों की जटिलताओं से निपटने में यदद मिली। सागर शर्मा और विवेक जानी ने आगंतुकों के माध्य अपने अंतर्वृष्टि और ज्ञान याहा किया। नागपूर शाखा की कोलाहलवाल सीए स्वरूप वज्रलवार के कुशल समन्वय में कार्यक्रम का आयोजन हुआ। नागपूर शाखा के अध्यक्ष सीए संजय एम अग्रवाल ने अनुपालन तत्र में बढ़ती जटिलताओं को दूर करने के लिए ऐसे कार्यक्रमों के महत्व पर जोर दिया।

Fri, 11 August 2023  
**लोकमत**  
<https://epaper.bhaskarhindi.com>



## लोकमत

### आयसीएआय नागपूरतर्फे 'वॉकेथॉन'



नागपूर : आयसीएआय पश्चिम विभागाच्या नागपूर शाखा आणि 'विकास'च्या दतीने सीए दिनानिमित्त ४ किमी वॉकेथॉनचे यशस्वी आयोजन करण्यात आले. नागपूर सीए शाखेचे अध्यक्ष सीए संजय एम. अग्रवाल म्हणाले, फिटेनसला प्रोत्साहन देण्यासाठी शाखेतर्फे दरवर्षी वॉकेथॉनचे आयोजन करण्यात येते. अग्रवाल यांनी सर्व मान्यवर आणि स्पर्धकांचे स्वागत केले. सीपी क्यूब सिलिंग लाइन्स येथून येणे आणि जाण्याचा मार्ग होता. या आयोजनाला इंडियन मेडिकल कॉलेज, नागपूर पोलिस विभाग, झुलेलाल रम्स अकादमी आणि नागपूर रम्स अॅण्ड रायडर्सचे सहकार्य मिळाले. यावेळी सीए अक्षय गुल्हाने, सीए दिनेश राठी, सीए स्वरूप वळ्डलवार, सीए अभिजित केळकर, सीए जितेन सागलानी, सीए दीपक जेठवानी, सीए अंजय वासवानी, सीए तुर्नी भट्ट, सीए ओ. एस. बागडिया, सीए सतीश सारडा, सीए संदीप जोतवानी, डॉ. अमित झावरानी, मितेश रामभिया, डॉ. सत्कार पवार आणि २५०हून अधिक सीए आणि 'विकास' नागपूर चमूचे सदस्य उपस्थित होते.

Hello Nagpur  
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## LOKMAT TIMES

# Walkathon organised on CA Day

LOKMAT NEWS NETWORK  
NAGPUR

Nagpur Branch of WIRC of ICAI and Nagpur branch of WICASA organised 4 km Walkathon on the occasion of 75th CA Day Celebration 2023.

Speaking on the occasion chairman of the branch, CA Sanjay Agrawal said that ICAI, Nagpur has organised this walkathon to promote fitness among its members and this would be a regular feature of the branch. He also welcomed all the participants.

In the Walkathon, around 250 Chartered Accountants & Students participated. The route for the walkathon was from Near CP Club Civil Lines to and back. The event received a very good response from all the members, students.

The event was supported



CAs and students who participated in the walkathon with lot of enthusiasm.

by Indian Medical College, Department of Nagpur Police, Jhulelal Runners Academy (OCR North) and Nagpur Runners & Riders.

Prominently present on the

occasion were CA Akshay Gulhane, CA Dinesh Rathi, CA Swaroopa Wazalwar, CA Sanjay Agrawal, CA Abhijit Kelkar, RCM, CA Jiten Saglani, CA Deepak Jethwani, CA

Ajay Vaswani, CA Trupti Bhattad, past chairmen CA OS Baglia, CA Satish Sardia, CA Sandeep Jotwani, Dr. Amit Jhavrani, Mitesh Raambla, Dr. Satkar Pawar and others.

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## ICAI का फिटनेस को बढ़ावा

4 KM के वॉकथॉन में 250 ने लिया हिस्सा

## आईसीएआई नागपुर ने मनाया स्वतंत्रता दिवस

नामांगुण। आर्याएऽर्यां यंत्रोली नामांगुणी वै नामांगुणात्मा मे ७७० न्यत्रतां दिव्यं पूर्णं जीवं और उत्तरां देवं साध यत्कर्मा गता। उस अवधार में वैष्णवी वैष्णवी एवं वैष्णव एवं अग्रवाल अध्यक्ष वापांगुणात्मा द्वारा दिव्यं गता नामा को संवेदित करते हुए उन्होंने कहा कि वैष्णवी वैष्णवी जीवांगुणात्मा में वैष्णव की वैष्णवात्मा करना उनके लिए नहीं का बाधा है। इस अवधार पर वापांगुण अध्यक्ष द्वारा उन्होंने अग्रवाली वैष्णवीं के नामांगुण देने सभी न्यत्रतां संवेदितियों को वैष्णवात्मा अस्ति की। उन्होंने अग्रे कहा कि अग्रवाली वैष्णवी भास्तु के नामांगुणिकार के नामे अग्रवाली के भास्तु विवेदितियां भी होती हैं। उन्होंने अग्रे जीवांगुण यादी लालाल, लोलाल द्वारा नामांगुण के वैष्णवात्मा को वैष्णवात्मा और उन्होंने अवधार वैष्णवी की जीवांगुण के निवारण को वैष्णवात्मा को अग्रवाली के अग्रवाली की वैष्णवात्मा देने का भी अस्तुपारिका किया। उन्होंने साक्षात् और जीवों से देवा के विवरात्मा में वैषेषिक और अव्यक्तिगत रूप से वैष्णवात्मा देवा



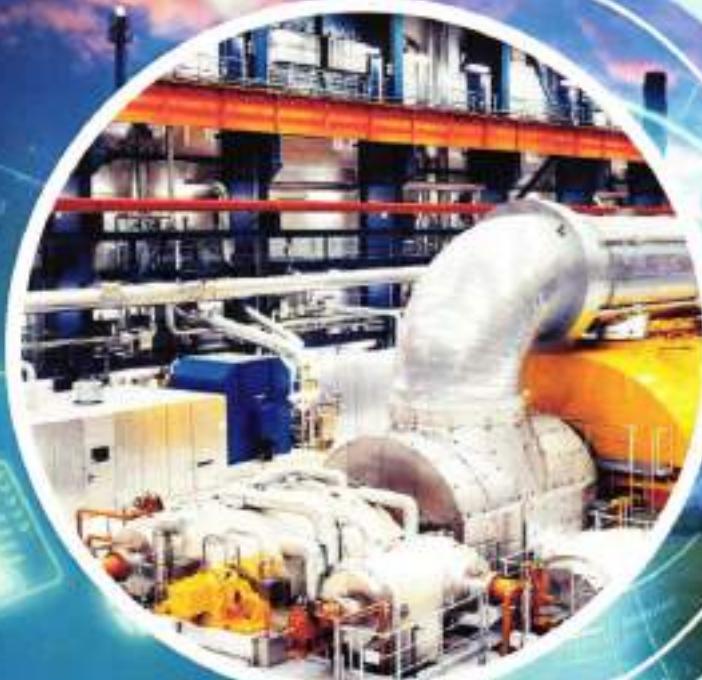
## कार्यक्रमातून पद्याचे मार्गदर्शन



नागपूर : चार्टर्ड अक्टुअटटेटच्या आयसीएआयच्या डब्ल्युआयआरसीच्या नागपूर शाखेद्वारे नागरिकोना करविषयक कायदावावत मार्गदर्शन करण्यासाठी आयोजित टॅक्स विलनिक कार्यक्रमाचा नुकताव समारोप करण्यात आला. घटीली घेण्याल नागपूर शाखेच्या कायलयात आयोजित या कार्यक्रमात सीए सागर शर्मा व सीए विडेक जानी यांनी करविषयक कायदावावत उपस्थितीना मार्गदर्शन केले. कार्यक्रमाचे समन्वयन आयसीएआयच्या डब्ल्युआयआरसी नागपूर शाखेच्या टोपायाच्यास्त्री सीए स्टर्लिंग डजलवार यांनी केले. कायदावे पालन व यांतील जटिलता समजावून सांगण्यासाठी अशा प्रकारच्या कार्यक्रमाचे आयोजन आवश्यक असल्याचे मत यांवरी आयसीएआयच्या डब्ल्युआयआरसीच्या नागपूर शाखेचे अध्यक्ष सीए संजय एम. अमगावळ यांनी केले. बदललेल्या परिस्थितीत स्फृत ला अपडेट करीत राहणे आवश्यक असल्याचे त्यांनी नमंद केले.



# EXPRESS GREEN POWER FOR SUSTAINABILITY (eGPS) LOANS UNDER 4E



## OBJECTIVE

- Capex for Energy Efficiency Equipments / Machineries, Solar Roof Top etc.
- Transit from Diesel/Petrol as fuel to cleaner like PNG/CNG
- Other Green/Clean initiative aimed at reduction of Carbon Emission, Waste Management, Renewable Energy

## Loan Amount

- Upto 100% funding with cash collateral in the form of SIDBI FDR
- Minimum loan - Rs. 5 lakhs and
- Maximum Loan - Rs. 100 lakhs

## Key Features

- Concessional interest rate as per rating
- Repayment: up to 60 months
- Moratorium : upto 6 months
- Quicker sanction

## Target Sectors & Eligible Projects

- Manufacturing and service sectors
- Energy efficient machineries/technologies
- Renewable Energy Projects

## Eligibility

- Minimum of 3 years of operation and 2 years Cash Profit
- The borrowers should not have defaulted to any Banks/Financial Institutions
- Upto CMR-6 and FIT Rank 8

## Benefits to MSMEs

- Digitized application, In-Principle sanction process through FIT Rank model
- System driven Legal documentation

## Rate of Interest

Repo linked (7.00 % - 8.10%)

To Know more, visit our nearest branch. Locate us at: [www.sidbi.in](http://www.sidbi.in)  
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**in** SIDBI (Small Industries Development Bank of India)

**Small Industries Development Bank of India,**

Ground Floor, National Insurance Building, S.V.Patel Marg,  
Kingsway, Nagpur-440001.

Tel: 0712-2553201, 2526927 E-mail : [nagpur@sidbi.in](mailto:nagpur@sidbi.in)





**MONTHLY  
E-NEWSLETTER  
AUGUST 2023**

E-Post

From

**The Institute of  
Chartered Accountants of India**

**Nagpur Branch of**

**Western India Regional Council**

ICAI Bhawan, 20/1, Dhantoli, Nagpur-440 012

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Website : [www.nagpuricai.org](http://www.nagpuricai.org)

The Views expressed in the News Letter are those of the Individual contributors and not necessarily those of the Nagpur Branch of WIRC of ICAI. Published by **CA. Sanjay M Agrawal**, Editor in Chief on behalf of the Institute of Chartered Accountants of India, Nagpur branch & designed at Agrawal Paper Rulling & Book Binding Works, Telipura, Sitabuldi, Nagpur M.: 8087142982