



**Chengalpattu District Branch of SIRC of ICAI
(Formerly known as Kanchipuram District Branch)**

E- NewsLetter JANUARY 2021





Chengalpattu District Branch of SIRC of ICAI

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Note: Articles are invited from members for publishing in newsletter. The articles shall be either on the specific subject or a general article. Members can mail their article with Name, Membership Number, Mobile Number, Residential Address, Office Address & Photo to our Mail mentioned below

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Note: The views expressed in the articles published are their own views and Chengalpattu District Branch does not endorse or take responsibility for the views expressed in the articles.

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E-NEWSLETTER

CHENGALPATTU DISTRICT BRANCH OF SIRC OF ICAI

From the Chairperson's Desk

Esteemed Brothers and Sisters,

Wishing you all a very happy, prosperous and successful New Year 2021.



Hope 2021 would be a great year after a Pandemic 2020.

2020 has just ended with lot of learning on account of nature's action.

We have learnt to live in difficult situations.

Any situation can be handled by mankind, of course with the blessings of God.

At least from now on let us all live with nature and preserve everything including the mankind.

2020 was a challenging year for every one of us.

2021 which has begun, however with deadlines which is the order of the day for every member.

Let us all keep good health and honour our commitments and handle our commitments with our usual pride.

SIRC Regional Conference

52nd Regional Conference of SIRC of ICAI - "SIGARAM" was conducted from Dec 10th to 13th, 2020 with a CPE of 12 hours.

Glad to share with you that our branch SICASA was awarded second best SICASA award at SIRC level for the year 2019.

I congratulate SICASA Chairman and SICASA team both past and present for their untiring efforts in bringing this glory to the branch.

Let us keep fit for rendering our services in the best manner.

Kudos to the observers and other colleagues who have been cooperative for conducting CA examination.

I thank the contributors who are contributing articles for our branch e newsletter even during lock down period.

I thank the managing committee members for their continued support and encouragement.

I pray the Almighty for the welfare of every one and early lifting of complete lock down so that the economic activity can resume in the country as a whole.

Stay safe. Take care.

JAI HIND

CA G GEETHA

CHAIRPERSON

CHENGALPATTU DT BRANCH OF SIRC OF ICAI.

DATE: 01.01.2021

Indirect Taxes Updates

by CA R. V. Bhuvaneshwari



Notifications:

1. With effect from 01.12.2020, every registered person shall mention 8 Digits HSN Code in the Tax Invoice issued by him for the Supply of Chemicals mentioned in this Notification.

Notification No.90/2020 CT, Dt. 01.12.2020

2. With effect from 01.12.2020, the Time Limit for completion of Compliances which falls during the period from 20.03.2020 to 29.11.2020, and where completion or compliances of such action has not been made within such time, such time limit has been extended upto the 31.03.2021.

Notification No.91/2020 CT, Dt. 14.12.2020

3. With effect from 22.12.2020, relating to the 14th Amendment CGST Rules, 2020 the following shall come into force.

Registration:

- If opted for Aadhar Authentication, prior to approval, biometric based Aadhar authentication and taking photograph shall be done.
- The time limit for approval has changed from 3 Working Days to 7 Working Days.
- If not opted for Aadhar Authentication, prior to approval, biometric based Aadhar authentication, taking photograph, and Verification of KYC documents shall be done.
- The time limit for approval shall be 30 Days from the date of submission of Application.

Suspension:

- The proper officer has powers to suspend the Registration of the Tax payer u/s 29 or Rule 21, without giving the opportunity of being heard.
- New subrule 21(2A) has been inserted. When there are significant differences or anomalies indicating contravention of the provisions of the Act or Rules, Registration

of the said person may be suspended in Form GST REG-31, on the common portal or by communication to his E-mail, highlighting the said differences or anomalies and asking to explain within a period of 30 Days as to why his registration shall not be cancelled.

- New subrule 21(3A) has been inserted. A registered person whose registration has been suspended shall not be granted any Refund u/s 54, during the period of suspension.

Input Tax Credit

- Rule 36(4). ITC can be availed by a registered person in respect of Invoices/Debit notes which are not FURNISHED by the suppliers only to the extent of 5% of the Eligible ITC in respect of Invoices/Debit Notes which have been FURNISHED by the Supplier.

Returns

- New Rule 59(5) has been inserted. A Registered Person will not be allowed to furnish the GSTR-1, if he has not furnished GSTR-3B for preceding 2 months or if he has not furnished GSTR-3B for the preceding Tax Period if he is a Quarterly filer of 3B.

Rule 86B

- With effect from 01.01.2021, New Rule 86B has been inserted.

- A Registered person shall not use more than 99% of ITC from his Credit Ledger to discharge his Output Tax liability.

- Applicable for Taxpayers whose Taxable Supply other than Exempted & Zero Rated, exceeds Rs.50 Lacs in a month.

Not Applicable for:

(i) The registered person has received a refund amount of more than Rs.1 Lacs in the preceding financial year on account of unutilised input tax credit due to Export / SEZ Supplies

(ii) If the income Tax paid during the Last 2 years by any Proprietor/Karta/Managing director or any of its two partners/ whole-time Directors/ Members of Managing Committee of Associations/ Board of Trustees

(iii) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year

(iv) the registered person is a Government Department or a Public Sector Undertaking or a local authority or a statutory body.

Income Tax Case Laws

by CA. Muthu Abirami



Reference: <https://www.taxmann.com/>

Madras High Court

Anand Kumar vs ACIT

T.C.A. NO. 388 OF 2019

Held: Section 44AD is available only for an eligible assessee engaged in an eligible business, hence, interest and salary received by assessee not carrying on business independently but only as a partner in firm could not be construed as business income under section 28(v) and therefore not eligible for applying the presumptive interest rate of 8 per cent under section 44AD; only remuneration and salary, received from a firm, to extent of eligible under clause (b) of section 40, would be considered as profits and gains of business or profession of recipient partner

Madras High Court

CIT vs Manish D Jain (HUF)

TCA 223 OF 2020

Held: Where Assessing Officer after verification found that transaction of purchase of shares by assessee was a sham transaction and that assessee could not discharge onus cast upon her to prove genuineness of transaction by producing documentary evidence and accordingly refused to entertain claim made by assessee under section 10(38) towards sale proceeds - Appeal against same was dismissed by Commissioner (Appeals), Tribunal, without finding an error in approach of Assessing Officer or Commissioner (Appeals) and without interfering with such finding was not justified in remanding matter to Assessing Officer for a fresh consideration of claim made by assessee under section 10(38) - Even in such circumstances, Tribunal was required to record reasons as to why matter should be remanded and as to why Tribunal could not decide factual issue on available material.

Madras High Court

Karti P Chidambaram vs DDIT(Investigation)

CRL. R.C. NOS. 510 AND 511 OF 2020

CRL.M.P.NOS. 4044 & 4045 OF 2020

Held: Unless strong materials seized from accused, for offence allegedly committed while filing returns and false verification filed before Assessing Authority, only Assessing Authority or any other officer authorised by that officer is competent to file a complaint under section 276C/277, not by the Deputy Director.

- Unless strong materials seized from accused or any incriminating statement recorded from accused the prosecution has to wait till the finding recorded by Assessing Officer. In view of the same, complaint filed by the Deputy Director for the offence allegedly committed while filing Returns and false verification filed before the Assessing Authority, this Court is of the view that only the Assessing Authority or any other officer authorised by that officer is competent to file a complaint, not by the Deputy Director.
- Merely because search has been conducted and some third parties statements were recorded and further they have also not been examined, this Court is of the view that unless a finding recorded by the Assessing Officer as to wilful attempt to evade tax or filing false verification, the complaint filed by the Deputy Director is not maintainable.
- Only in the cases where incriminating materials seized from the possession of the assessee and any statements which incriminate themselves recorded under section 132 (4) of the Income-tax Act or any incriminating evidence collected clinchingly establishes complicity of the accused with the crime, prosecution can be initiated without waiting for the assessment or reassessment proceedings. Otherwise when materials collected are weak and prosecution itself rely them only as corroborative evidence then Department has to wait till the finding recorded by Assessing Officer.

ITAT Mumbai

Grasim Industries Ltd vs DCIT

ITA 1935 (Mum) OF 2020

Held: Powers of recovering disputed taxes are with Assessing Officer; once Assessing Officer has himself decided not to take coercive measures for time being and direct assessee to make payment of any part of disputed demands, it cannot be open to Tribunal to direct assessee to pay same; question of such directions by Tribunal would have relevancy only when Tribunal was to pass any stay order subject to such a condition.

Demands in respect of collection/recovery of tax and interest was raised - A conscious decision was taken by revenue authorities not to recover outstanding demands for time being - Assessing Officer did not wish to recover demands in hope that as a law-abiding corporate citizen, assessee would volunteer to co-operate with income tax department and Assessing Officer chose to wait till suitable clarification was obtained from High Court to effect that stay granted in a writ petition challenging validity of order declining stay under section 220(6) ceases to hold good - Whether powers of recovering disputed taxes are with Assessing Officer; once an Assessing Officer had himself decided not to take coercive measures for time being and to direct assessee to make payment of any part of disputed demands, it could not be open to Tribunal to direct assessee to pay same; question of such directions by Tribunal would have relevancy only when Tribunal was to pass any stay order subject to such a condition - Held, yes (In favour of assessee)

MCA Updates

by CA A. Priya

Relaxation of Additional Fees and Extension of Last Date of Filing of Form CRA-4 for Financial Year 2019-20

MCA vide General Circular No.38/2020 dt.01st December 2020 extended the last date of filing of Form CRA-4 (Form for Filing of Cost Audit Report) for financial year 2019-20 under the Companies Act 2013 to 31st December 2020.



Earlier MCA vide its General Circular No.29/2020 dt.10th September 2020 extended the last date of of submission of Cost Audit report to 30th November 2020.

The cost audit report for the financial year ended on 31st March, 2020 are to be filed in e-form CRA-4 within 30 days from the date of receipt of the copy of the cost audit report by the company.

In case a company has availed extension of time for holding Annual General Meeting then e-form CRA-4 may be filed within the timeline provided under the proviso to rule 6(6) of the Companies (Cost Records and Audit) Rules, 2014. On the receipt of the Cost audit report from Cost auditors, the company would to submit the same to Central Government in form CRA-4.

Companies (Compromises, Arrangements and Amalgamations) Second Amendment Rules, 2020.

MCA vide its Notification dt.17th December 2020 made further amendments to the Companies (Compromises, Arrangements and Amalgamations Rules), 2016, by introducing Companies (Compromises, Arrangements and Amalgamations) Second Amendment Rules, 2020.

The amendment seeks to include the word “corporate action”, which means any action taken by the company relating to transfer of shares and all the benefits accruing on such shares namely, bonus shares, split, consolidation, fraction shares and right issue to the acquirer.

As per the new Rule 26 A, the company shall within two weeks from the date of receipt of the amount equal to the price of shares to be acquired by the acquirer, u/s.236 of the Act,

verify the details of the minority shareholders holding shares in dematerialised form.

After verification the company shall send notice to such minority shareholders about a cut-off date, which shall not be earlier than 1 month after the date of sending of the notice, on which the shares of minority shareholders shall be debited from their account and credited to the designated DEMAT account of the company, unless the shares are credited in the account of the acquirer, as specified in such notice, before the cut-off date.

For the purposes of effecting transfer of shares through corporate action, the Board shall authorise the Company Secretary, or in his absence any other person, to inform the depository under sub-rule (4), and to submit the documents as may be required under the said sub-rule," the MCA said.

Upon receipt of information the depository shall make the transfer of shares of the minority shareholders, who have not, on their own, transferred their shares in favour of the acquirer, into the designated DEMAT account of the company on the cut-off date and intimate the company.

After receiving the intimation of successful transfer of shares from the depository under sub-rule (6), the company shall immediately disburse the price of the shares so transferred, to each of the minority shareholders after deducting the applicable stamp duty, which shall be paid by the company,

If "cut-off date" falls on a holiday, the next working day shall be deemed to be the "cut-off-date."

Companies (Auditor's Report) Second Amendment Order, 2020

MCA vide its Order dt.17th December 2020 amended Companies (Auditor's Report) Second Amendment Order, 2020, stating that the Companies (Auditor's Report) Order, 2020 shall be applicable with effect from 01st April 2021.

Companies (Incorporation) Third Amendment Rules, 2020.

MCA vide its Notification dt.24th December 2020 made further amendments to the

Companies (Incorporation) Rules, 2014 by introducing Companies (Incorporation) Third Amendment Rules, 2020.

Rule 9A shall be inserted w.e.f 26th January, 2021, the extension in the time limit for the reservation of name. Generally a name reserved is available for a period of 20 days. The said period can be extended upon payment of additional fee as per table

Sl.No.	Extension beyond 20 days in days	Total Days for name reservation after extension	Amount to be paid in addition of Rs. 1000	When to apply
1	20 days	40 (20 days+20 days)	Rupees One Thousand	Before the expiry of 20 days from date of approval
2	40 days	60 (20 days+20 days + 20 days)	Rupees Two Thousand	Before the expiry of 40 days from date of approval
3	40 days	60 (20 days +40 days)	Three Thousand	Before the expiry of 20 days from date of approval

Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2020

MCA vide its Notification dt.18th December 2020 made further amendments to the Companies (Appointment and Qualification of Directors) Rules, 2014, by introducing Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2020.

MCA has given relief in the time period to pass the online proficiency exam. An individual shall pass the online proficiency exam within a period of 2 years from the date of inclusion of his/ her name in the database.

Exemption is given from passing the online proficiency test to an individual who has served for a total period of not less than 3 years in any of the designations and organizations specified by the Central Government as against the earlier specified period of 10 years.

Only 50% mark is sufficient to pass the online proficiency test.

An Independent Director has to mandatorily get himself registered in the Director database to be eligible to become an Independent Director.

MCA notifies 17 Provisions of Companies (Amendment) Act, 2020 wef 21st December 2020

MCA vide its Notification dt.21st December, 2020 appointed 21st day of December, 2020 as the date on which the 17 more provisions of Companies (Amendment) Act, 2020 shall come into force. The following sections were notified

SI. No.	Sections
1.	Section 1;
2.	Section 3;
3.	Sections 6 to 10 (both inclusive);
4.	Sections 12 to 17 (both inclusive);
5.	Clauses (a) and (b) of section 18;
6.	Sections 19 to 21 (both inclusive);
7.	Clause (i) of section 22;
8.	Section 24;
9.	Section 26;
10.	Sections 28 to 31 (both inclusive);
11.	Sections 33 to 39 (both inclusive);
12.	Sections 41 to 44 (both inclusive);
13.	Sections 46 to 51 (both inclusive);
14.	Section 54;
15.	Section 57;
16.	Section 61; and
17.	Section 63.

Companies (Share Capital and Debentures) Second Amendment Rules, 2020

MCA vide its Notification dt.24th December 2020 made further amendments to the Companies (Share Capital and Debentures) Rules, 2014, by introducing Companies (Share Capital and Debentures) Second Amendment Rules, 2020, by amending and substituting a new e-form SH-7 for notifying alteration of share capital to Registrar

The new form includes the provisions for cancellation of unused issued Share of one class and increase in share capital. Earlier, the form did not have any such pointers and the company needed to attach requisite docs. Now, the form also captures the order of tribunal (if applicable) and date of receipt of such order.

eForm SH-7 was revised on MCA21 Company Forms Download page w.e.f 25th December, 2020. Latest version of the same may be used before filing.

MCA issued a note on 31st December 2020 that there is no change in the additional fee logic of eform MGT-7 and AoC-4/AOC-4 XBRL/AOC-4 CFS/AOC-4 NBFC for the FY 2019-20 w.e.f 01 January 2021 since extension was provided to all the companies for conducting AGM and not for filing the form. Hence, the due date of form filing shall be computed based on the actual date of AGM or due date/extended due date of AGM as the case may be. Post 31st December 2020, additional fee shall be applicable from the actual date of AGM or due date/extended due date of AGM + 30/60 days as the case may be and Rs.100 per day shall be charged starting from such day even if such date falls prior to 31st December 2020.

MCA issued a note on 31st December 2020 that the Field 'SRN of the application filed for extension' (GNL-1) in eform MGT-7 was made optional for FY 2019-20 w.e.f 01 January 2021 due to blanket extension provided for all companies to conduct AGM. Consequently, eForm MGT-7 was been revised on MCA21 Company Forms Download page w.e.f 1st January, 2021. Stakeholders were advised to check the latest version before filing.

MCA issued a note on 31st December 2020 note that the last date for filing DIR-3 KYC for Financial year 2019-20 had expired on 31st December 2020. The process of deactivating the non-compliant DINs was in progress and would be completed shortly. Web service DIR-3 KYC would not be available for filing during the pendency of this activity. Filing of DIR-3 KYC could be made after completion of the scheduled activity, as above, when the service is made available on the portal after payment of applicable fees. Stakeholders were required to note and plan accordingly.

Due dates for filing RoC forms:

Form	Particulars	Due Date
Form ADT-1	Appointment of Auditor	Within 15 days from the date of AGM.
Form AOC-4 Form AOC-4 (XBRL) Form AOC-4 CFS (consolidated financial statements) Form AOC-4 NBFC (Ind AS) Form AOC-4 CFS NBFC (Ind AS)	Annual Accounts	Within 30 days from the conclusion of AGM In case of OPC within 180 days from the close of the financial year
Form MGT-7	Annual Return	Within 60 days from the conclusion of AGM
Form-11	Annual Return of Limited Liability Partnership (LLP)	within 60 days of end the respective financial year i.e 30st May
Form-8	Statement of Account & Solvency	within 30 days of end 6 months of the closure of the financial year i.e. 30th October
CRA-4	Filing of Cost Audit Report	within 30 days from the date of receipt of the copy of the cost audit report by the company

COMPLIANCE CALENDER**COMPLIANCE UNDER GST**

S.NO	DUE DATE	COMPLIANCE REQUIRED
1	11-01-2021	Due date for Filing of GSTR1 for the month of December 2020
2	13/01/2021	Due date for Filing of GSTR1 for the quarter Oct to Dec 2020
3	20/01/2021	Tax payers with Turnover more than Rs.5 crores - Due date for filing of GSTR 3B for the month of December 2020
4		In case of taxpayers in states (A) (Refer below)
5	22/01/2021	Tax payers with Turnover upto Rs.5 crores - Due date for filing of GSTR 3B for the month of December 2020
6		In case of taxpayers in states (B) (Refer below)
7	24/01/2021	Tax payers with Turnover upto Rs.5 crores - Due date for filing of GSTR 3B for the month of December 2020
8	18/01/2021	Tax payers under composition scheme - Due date for Filing of CMP-08 for the quarter Oct - Dec 2020

States (A) - Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep

States (B) - Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi

COMPLIANCE UNDER INCOME TAX ACT

S.NO	DUE DATE	COMPLIANCE REQUIRED
1	15/01/2021	Due date for furnishing of Tax Audit report for A.Y.2020-21 (including for tax payers having international/specified domestic transactions)
2	10-01-2021	Due date for filing of ITR for all assessees not having tax audit requirement for A.Y..2020-21
3	15/02/2021	Due date for filing of ITR for all assessees having tax audit requirement for A.Y.2020-21 (including tax payers having international/specified domestic transactions)
4	31/03/2021	Due date for filing of TDS Return for Q1 for F.Y.2020-21
5	31/03/2021	Due date for filing of TDS Return for Q2 for F.Y.2020-21
6	31/01/2021	Due date for filing of TDS Return for Q3 for F.Y.2020-21
7	31/05/2021	Due date for filing of TDS Return for Q4 for F.Y.2020-21
8	31/03/2021	Due date for filing of TCS Return for Q1 for F.Y.2020-21
9	31/03/2021	Due date for filing of TCS Return for Q2 for F.Y.2020-21
10	15/01/2021	Due date for filing of TCS Return for Q3 for F.Y.2020-21
11	15/05/2021	Due date for filing of TCS Return for Q4 for F.Y.2020-21
12	31/01/2021	Due date for making a declaration under Vivad se Vishwas Scheme

COMPLIANCE UNDER LABOUR LAWS

S.NO	DUE DATE	COMPLIANCE REQUIRED
1	15/01/2021	Due date for ESI contribution for the month of December 2020
2	15/01/2021	Due date for PF contribution for the month of December 2020