



**THE INSTITUTE OF
CHARTERED ACCOUNTANTS OF INDIA**

(Set up by an Act of Parliament)

▶ **PUNE BRANCH
OF WIRC OF ICAI**

NEWSLETTER

**Issue NO. 09
SEPTEMBER 2020**

(Subscribers copy not for sale)



Talent is a perfume bottle. If you never open it, nobody knows the fragrance inside it. Be open and have fragrance in your life.

Chairman's Communique



CA. Abhishek Dhamne
Chairman
Pune Branch of WIRC of ICAI

• Dear Members,

"There are decades when nothing happens. There are weeks when decades happen" The Pandemic situation of coronavirus teaches us how to use Digital Technology more effectively and reset life with a new beginning. Come what may, mankind must move forward.

September month is usually a most exhilarating month for Chartered Accountants. But this year being different, already extensions for Tax Audit and Income Tax Returns are on records though not enough considering scenarios around us.

At Pune ICAI, in the month of August we had successfully conducted various programs which included Virtual Direct and Indirect Tax Refreshers Course under the Theme : Profession - Tomorrow and Beyond by the expert faculties. Independence Day and Ganesh Festival were celebrated with same passion and zeal on virtual mode.

We are glad to inform you that, Pune ICAI team was invited to attend e-program "Transparent Taxation - Honoring Honest" having blessed with the presence Shri. Narendra Modi, Hon. Prime Minister of India.

In the September we have planned many programs that it will help for the compliances and audit. The major program includes program on Co-Operative Sector - 'Sahakar Sanvad' organises by Professional Development Committee jointly with Pune Branch, wherein Dr. Vishwajit Kadam, Hon. Minister of State for Co-Operation, Maharashtra will be addressing us for the Inaugural session along with other dignitaries. Virtual Outreach Program Jointly with CPC-ITR, Bangalore and WIRC, Virtual CPE Meeting on Changes in NRI definition and its impact on NRI Taxation, Cybersecurity - Practical Aspects & Three days Investor Awareness.

Pune ICAI also held many live webinars for CA students such as "get way to English communication" along with

programs like "you are a product" explaining them the needs of today's charter accounts and helping them to improve their soft skills. The branch also conducted debate competition virtually for ca students with the topics like "ban on chines goods- practical vs impractical, corona-opportunity vs curse emotional quotient vs intelligence.

A career counseling program was held in support with S.P college , Pune explaining the student the ICAI curriculum. Webinar on "effective use of tally erp-9 for the GST compliance" was conducted for the members and students jointly with Pune WICASA. Looking at students interest to be financially independent at an young age, the urge of trading is seen in the minds of CA students for which webinar on "basics of stock market" was conducted.

As we all know the role of brother in our society is seen as a "rakhshak" who is willing to protect us from what may come. For this auspicious occasion WICASA along with WIRC jointly with Pune WICAS celebrated this occasion by distributing sweets and chocolates to the corona warriors.

While entering the journey of CA it is important to know what the course is really about. As it is wisely quoted By Ursula K. Le Guin "It is good to have an end to journey toward; but it is the journey that matters, in the end", we conducted induction program for the direct entry students.

We are inviting suggestions on the National Education Policy and CA Course from the expert in the field of education and policy makers.

Pune ICAI, started a dedicated helpline number to assist the CABF Support to Members in COVID.

Jai Hind!!!

Happy to Serve, Stay Safe and Healthy.

Abhishek Dhamne,

Chairman, Pune ICAI,

September 1, 2020

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See your goal, understand the obstacles, create a positive mental picture, clear your mind of self doubt, embrace the challenge and stay on track. Show the world you can do it!

List of recorded webinars held in the month of AUGUST 2020

Available on Pune ICAI YouTube Channel

SR. NO.	DATE	TOPIC	SPEAKER	LINK
1	8th August, 2020	Direct Tax Refreshers Course 2020 (Day 1)	<ul style="list-style-type: none">CA C. V. ChitaleCA Sudin Sabnis	https://youtu.be/D_RPaEkNLK4
2	9th August, 2020	Direct Tax Refreshers Course 2020 (Day 2)	<ul style="list-style-type: none">CA Devendra JainCA Mehul R. Shah	https://youtu.be/Xifbizkr2Bo
3	15th August, 2020	Direct Tax Refreshers Course 2020 (Day 3)	<ul style="list-style-type: none">CA Vishal DoshiCA Tarun Ghia	https://youtu.be/pNHGc36FaY4
4	16th August, 2020	Direct Tax Refreshers Course 2020 (Day 4)	Mock Tribunal	https://youtu.be/n8emdp8VySc
5	21st August, 2020	Direct Tax Refreshers Course 2020 (Day 5)	<ul style="list-style-type: none">CA Vishal GadaCA Milin Mehta	https://youtu.be/83lOdPgHBy8
6	23rd August, 2020	Direct Tax Refreshers Course 2020 (Day 6)	<ul style="list-style-type: none">CA Vipin GujarathiAdv. CA Kapil Goel	https://youtu.be/rvTl0TjWIW4
7	23rd August, 2020	Webinar on "Effective use of Tally ERP-9 for GST Compliance" for Members & Students	CA. Vandana Dodhia	https://youtu.be/QwEvjyus0nU
8	23rd August, 2020	Management Lessons from Mahabharatee	CA. Shruti Hajirnis Gupte	https://youtu.be/rAZ5U0bqJPO
9	24th August, 2020	स्वामी विवेकानंद- जीवन कार्य आणि विचार	CA. Abhay Mate	https://youtu.be/QbSvr0ZTczl
10	25th August, 2020	तुच आहेस तुझ्या जीवनाचा शिल्पकार	CA. (Dr.) M. S. Jadhav	https://youtu.be/I6Ty5ahbojs
11	26th August, 2020	शिवछत्रपती- एक असामान्य व्यक्तिमत्व	CA. S. Z. Deshmukh	https://youtu.be/iHFtva9rDyw
12	27th August, 2020	सफर सिनेताऱ्यांची	CA. Jagdeesh Dhongde	https://youtu.be/nWkmgEMHt2k
13	28th August, 2020	भजन संध्या	CA. Bhushan Toshniwal	https://bit.ly/31IgaVv
14	28th August, 2020	Virtual CPE Meeting on New Penalty Provisions u/s 270A & Immunity u/s 270AA of the Income Tax Act	CA. Nikhil Tiwari	https://youtu.be/F9YVImFjiMI
15	29th August, 2020	Indirect Tax Refreshers Course 2020 (Day 1)	<ul style="list-style-type: none">CA Ravi SomaniCA Jatin Christopher	https://youtu.be/vTuIDyqF7ky
16	30th August, 2020	Indirect Tax Refreshers Course 2020 (Day 2)	<ul style="list-style-type: none">CA Yashwant KasarCA Umesh Sharma	https://youtu.be/laitZGnTrAw





If the assessee uses motor lorries partly for own use and for hire charges he is not entitled to claim excess depreciation @ 30% as per the provisions of Sec. 32 of the Income Tax Act

Contributed by :- CA. Suraj R Agrawal
Email Id :- casurajra@gmail.com

Case Law Citation: -

GVV Construction Pvt. Ltd. Vs. Deputy Commissioner of Income Tax;
ITA No. 280/ CTK/2017; Asst. Year 2013-2014; Aug 18, 2020

• Case Summary: -

• Facts of the case:

- The assessee filed return of income on 24.09.2013 declaring total income of Rs.3,29,07,929/-. The assessee is deriving income from civil contract business. The case of the assessee was selected for scrutiny and statutory notices were issued to the assessee.
- During the course of assessment proceedings, the AO noticed that the assessee has claimed depreciation at the rate of 30% on various items (14 nos.) under the head plant and machinery referring them as motor lorries used in a business of running them on hire. But on perusal of the profit and loss account, the assessee has not shown any income from hiring in respect of 14 items of plant and machinery in which the assessee claimed depreciation @30%.
- The AO also noted that the above items are not under the category of motor lorries as defined in the Income Tax Act regarding charging of depreciation as per Section 32 of the Act. In this regard the AO issued show cause notice dated 04.01.2016 requesting the assessee to show cause as to why the following 14 items should not be treated as plant and machinery, on which admissible rate of depreciation as per I.T.Act, 1961 is 15%.
- Only, motor buses, motor lorries and motor taxies used in a business of running of them hire is eligible for depreciation @30%. It was also mentioned by the AO that none of the following 14 items are coming under motor buses, motor lorries and motor taxies. It was further mentioned by the AO that no income from hiring the 14 items are shown in the profit and loss account for the F.Y.2012-2013.
- Against the show cause notice issued by the AO the assessee filed written submissions along with picture of the said impugned assets/machineries, which has been incorporated by the AO in the assessment order.
- On going through the above submissions of the assessee, the AO noticed that there was no any grievance made by the assessee for giving the vehicles on hire and no any bills and details of the hire charges payments were produced before the AO to substantiate the claim of the assessee.
- The AO also observed that the assessee claimed that instead of showing hire charges as income it had been credited to the accounting head 'hire charges' and furnished ledger copy of the same, but nowhere in the details it was mentioned that, only 'motor lorries' were given on hire. There is possibility that item forming



part of the plant and machinery other than 'motor vehicles/buses/lorries would have been given on hire.

- The AO further noticed that for claiming higher rate of depreciation the assets must be fallen under the category of motor vehicles/buses/lorries as prescribed in the Income Tax Act. But here there is no such case.
- Accordingly, the AO recalculated the depreciation @15% as prescribed by the Income Tax Act under the plant and machinery on the 14 items totaling excess depreciation calculated Rs.33,42,185/- and added back to the total income of the assessee.
- Feeling aggrieved from the order of the Assessing Officer, the assessee filed appeal before the CIT(A) and the CIT(A) after considering the submissions of the assessee and findings recorded by the AO, dismissed the appeal of the assessee.
- Aggrieved from the order of CIT(A), the assessee is in appeal before the Income Tax Appellate Tribunal.
- **Issue:**
 - Vehicles against which depreciation claimed @30% are not motor lorries and further the vehicles were not actually given on hire, particularly when, both findings are contrary to the statutory provisions of law and the Appellant is lawfully entitled for depreciation @30% on those vehicles. Impugned addition thus, being not sustainable in the eye of law is liable to be deleted in the interest of justice.
- **Departmental Representative:**
 - The assessee should have been separately disclosed in his financial statement and details on which type of impugned machineries had been given on hire. The assessee furnished only a ledger copy of the hire charges before the AO and it is also not clear that as to whether the hire charges were received from the impugned machineries or from any other machineries owned by the assessee.
- He further submitted that the additional depreciation can be claimed by the assessee as prescribed in the Income Tax Act read with Rule but the assessee is unable to demonstrate himself that how and why he is entitled for claim of additional depreciation and he also distinguished the case laws relied on by the assessee and Circular No.609, dated 29.07.1991.
- **Assessee Representative:**
 - Further he has submitted that the trucks, tippers, schwing stetter, mobile concrete mixture, ashok Leyland Taurus, conmat concrete paver are in the nature of motor buses, motor lorries and motor taxies and registered as per the Motor Vehicles Act, 1988. The assets were given on hire and the income from which have been credited under the head hire charges.
- **Ruling:**
 - After hearing both the sides and perusing the entire material available on record and case laws cited by both the sides, we noticed that the assessee is engaged in the civil construction business and has claimed depreciation at a higher rate on 14 impugned machineries which is not prescribed as per the New Appendix I Part-A III(ii) appended to the Income Tax Rules, 1962, as amended from time to time.
 - After going through the assessment order, we found that the assessee has himself accepted that there was a mistake in calculating the depreciation and he submitted correct depreciation chart as per Income Tax Act as Annexure-1 but it was not produced before us for our ready reference.
 - The AO has also observed that the assessee has received hire charges which should have



been separately shown in the financial statement but credited to the hire charges account, therefore, it is not clear that how the assessee has received hire charges from which machineries/motor cars.

- The assessee has also submitted that reply of the assessee dated 15.01.2016 to the show cause notice issued by the AO has not been considered. However, on perusal of the assessment order at page 12, the AO has already gone through the submissions made by the assessee and after considering the same has observed that the assessee failed to establish that the vehicles were used on hire basis.
- From the above discussion, it is clear that the AO has disallowed depreciation only on 14 items/machines/assets out of 20 items/assets and calculated the excess depreciation claimed by the assessee on 14 items only.
- From the provisions of the Motor Vehicles Act, the assessee was required to obtain registration from some assets as is clear from the picture of the assets showing in the assessment order but the assessee also did not produce any registration certificate before us as to whether the assets are registered as a commercial vehicle or private vehicles/assets.
- It is also clear from the Appendix Part-A(III) regarding depreciation the assessee is eligible for additional depreciation on the motor cars, motor lorries but the AO has disallowed higher depreciation claimed by the assessee on other assets which are not

covered under the motor car, motor vehicles as defined above as per the Motor Vehicles Act as amended.

- The assessee is engaged in the civil construction business and he has achieved huge turnover but without using of these heavy/light machineries/vehicles huge turnover cannot be achieved. If the assessee uses partly for own use and for hire charges he is not entitled to claim excess depreciation as per the provisions of the Income Tax Act. The rule for charging higher depreciation has been prescribed only for the vehicles which are running on hire.
- Our above view is supported by the judgment of Hon'ble Madhya Pradesh High Court in the case of CIT Vs. Anupchand and Co., [1999] 239 ITR 466 (Madhya Pradesh).
- Respectfully following the above judgment of the Hon'ble High Court, the assessee is not eligible/entitled for the claim of excess depreciation on impugned 14 items as mentioned by the AO in his order.
- In the peculiar facts and circumstances of the case, the case laws and circular relied on by the Id. AR of the assessee are not applicable in the present case in hand but the case laws cited by the Id. DR support the case to the extent of their applicability in the present case.
- Accordingly, we dismiss the grounds raised by the assessee and consequently, the appeal of the assessee is dismissed.





Expectation is injurious to health and heart. Never forget that only few people come in our life as blessings, all others come as lesson.

Cabinet approves "Scheme for formalisation of Micro Food Processing Enterprises (FME)

Contributed by :- CA Govind M Chandak

Email Id :- cagmchandak@gmail.com

Introduction

- The Union Cabinet, chaired by the Prime Minister Shri Narendra Modi, has given its approval to a new Centrally Sponsored Scheme - **"Scheme for Formalisation of Micro food processing Enterprises (FME)" for the Unorganized Sector on All India basis with an outlay of Rs.10,000 crore.**
- The expenditure will be shared by GOI and the States in The ratio of 60:40.



Objectives of the scheme

Increase in access to finance by micro food processing units.

Enhanced compliance with food quality and safety standards.

Increase in revenues of target enterprises.

Strengthening capacities of support systems.

The transition from the unorganized sector to the formal sector.

Encourage Waste to Wealth activities.

Special focus on women entrepreneurs &

Aspirational districts.

Focus on minor forest produce in

Tribal Districts.



Work for a cause and not for applause. Live life to express and not to impress. Do not strive to make your presence noticed, just make your absence felt.

Salient Features Of The Scheme

Cluster approach.

Focus on perishables.

2,00,000 micro-enterprises are to be assisted with credit linked subsidy.

The Scheme will be implemented over 5 years period from 2020-21 to 2024-25.

Centrally Sponsored Scheme. Expenditure to be shared by the Government of India and States at 60:40.

Support to Individual micro units

Beneficiary contribution will be minimum 10% and balance from loan.

On-site skill training & Handholding for DPR and technical upgradation.

Micro enterprises will get credit linked subsidy @ 35% of the eligible project cost with ceiling of Rs.10 lakh



Hurting is as easy as cutting a tree within a moment. Making someone happy is like growing a tree. It needs a lot of time, care and patience.

Support to FPOs/SHGs/Cooperatives

Seed capital to SHGs for loan to members for working capital and small tools.

Skill training & Handholding support.

Grant for backward/forward linkages, common infrastructure, packaging, marketing & branding

Credit linked capital subsidy.

Implementation schedule

Grant will be provided to FPOs for backward/forward linkages, common infrastructure, packaging, marketing & branding.

The scheme will be rolled out on All India basis

Seed capital will be given to SHGs (@Rs. 4 lakh per SHG) for loan to members for working capital and small tools

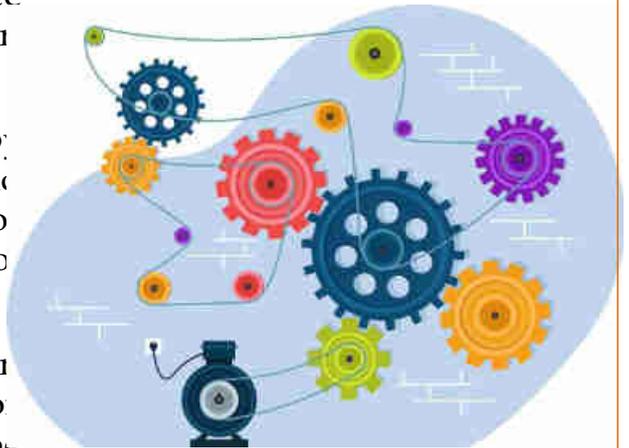
Back ended credit linked subsidy will be provided to 2,00,000 units



Tough times are like physical exercise. You may not like it while you are doing it, but tomorrow you will be stronger because of it.

Administrative and Implementation Mechanisms

- The Scheme would be monitored at Centre by an Inter-Ministerial Empowered Committee (IMEC) under the Chairmanship of Minister FPI.
- A State/ UT Level Committee (SLC) chaired by the Chief Secretary will monitor and sanction/ recommend proposals for expansion of micro-units and setting up of new units by the SHGs/ FPOs/ Cooperatives.
- The States/ UTs will prepare Annual Action Plans covering various activities for implementation of the scheme, which will be approved by the Government of India.
- A third party evaluation and mid-term review mechanism would be built in the programme.



State/ UT Nodal Department & Agency

The State/ UT Government will notify a Nodal Department & Agency for implementation of the Scheme.

State/ UT Nodal Agency (SNA) would be responsible for implementation of the scheme at the State/ UT level including preparation and validation of State/ UT Level Upgradation Plan, Cluster Development Plan, engaging and monitoring the work of resource groups at district/ regional level, providing support to units and groups, etc.



God said "Build a better world". I said, "How? The world is such a complicated, cold dark place and there is nothing I can do". God said "Just build a better you".

National Portal & MIS

A National level portal would be set-up wherein the applicants/ individual enterprise could apply to participate in the Scheme.

All the scheme activities would be undertaken on the National portal

Convergence Framework

Support from the existing schemes under implementation by the Government of India and State Governments would be availed under the scheme.

The Scheme would attempt to fill in the gaps, where support is not available from other sources, especially for capital investment, handholding support, training and common infrastructure.

Impact and employment generation

- Nearly eight lakh micro- enterprises will benefit through access to information, better exposure and formalization.
- Credit linked subsidy support and handholding will be extended to 2,00,000 micro enterprises for expansion and upgradation.
- It will enable them to formalize, grow and become competitive.
- The project is likely to generate nine lakh skilled and semi-skilled jobs.





- The scheme envisages increased access to credit by existing micro food processing entrepreneurs, women entrepreneurs and entrepreneurs in the Aspirational Districts.
- Better integration with organized markets.
- Increased access common services like sorting, grading, processing, packaging, storage etc.



Background

- There are about 25 lakh unregistered food processing enterprises which constitute 98% of the sector and are unorganized and informal. Nearly 66 % of these units are located in rural areas and about 80% of them are family-based enterprises.

- Strengthening this segment will lead to a reduction in wastage, creation of off-farm job opportunities and aid in achieving the overarching Government objective of doubling farmers' income.

- This sector faces a number of challenges including the inability to access credit, high cost of institutional credit, lack of access to modern technology, inability to integrate with the food supply chain and compliance with the health & safety standards.





Hard words can't touch a soft heart, but soft words can touch a hard heart.

Indirect Tax Refreshers Course 2020 Theme Profession - Tomorrow and Beyond



CA Ravi Somani - Speaker



CA Jatin Christopher - Speaker



CA Yashwant Kasar - Speaker



CA Umesh Sharma - Speaker

Pune ICAI Ganesh Festival 2020



CA. Shruti Hajirnis Gupte - Speaker



CA. Abhay Mate - Speaker



CA. (Dr.) M. S. Jadhav - Speaker



CA. S. Z. Deshmukh - Speaker



CA. Jagdeesh Dhongde - Speaker



CA. Bhushan Toshniwal - Speaker



*A person tired and fed up of life asked God, Why so many mountains and hills to climb in life?
God replied to have a better view of life.*



Webinar on Effective use of Tally ERP-9 for GST Compliance for Members & Students by CA. Vandana Dodhia - Speaker



Flag Hoisting on the Occasion of Independence Day



VCM on New Penalty Provisions under section 270A & Immunity under section 270AA of the Income Tax Act by CA. Nikhil Tiwari - Speaker





Important provisions of The Maharashtra Co-op. Societies Act, 1960 and the rules there under from auditors' point of view

Contributed by :- CA Prof Mehta Suresh K.
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19 Important provisions of The Maharashtra Co-operative Societies Act, 1960:-

Important definitions:-

Section 2 (5) bylaws; Section 2 (7) Committee; Section 2(10) co-operative bank; Section 2 (10-a) co-operative year; [Rule 2(c) defining the same term seems to be contradictory.] Section 2 (11) dividend; Section 2 (11-A) expert director; Section 2 (14-A) functional director; Section 2 (16) Housing society; S. 2 (19(a)) member; (a1) active member; (b) associate member; [see S.24 also]. (c) Nominal member; Section 2 (20) officer; Section 2 (24) registrar; Section 2 (26) rights and duties of members; Section 2 (27) Society; [Rule 2(i) defining the same term seems to be contradictory.] Section 2 (31) Working capital

Section 08- Registration- minimum ten members; [Rule 4-Registration-form A, four copies of the proposed bye-laws, list of members with details of their capital held ad entrance fees paid, bank balance certificate, economic viability details of the scheme and an entrance fees as prescribed;]

Section 12 – [see rule 10 also] - classification and sub-classification of societies;

Section 13- amendment of bye laws; [Rule 12- proper notice, approval of 2/3rd members present, approval from the registrar within two months]

Section 17- amalgamation, division etc. of societies; **Section 18A-** amalgamation of co-op. banks;

Section 22- who can become a member;

Section 23- open Membership; [Rule 19- applicaiton in the prescribed form (with resolutions from committee in case of registered bodies), approved by the committee];

Section 24A, See Rule 20B also-- education and training for members, officers and staff and contribution to education fund; [all members and committee to be trained- minimum for a day, maximum for three days in tenure through approved training institutions, contribution at the prescribed rates is to be made.

Section 25- cessation of Membership; **Valuation of shares** and **issue at par only**-Rule 23]

Section 25A- removal from Membership;

Section 26 Rights and duties- to attend at least one annual general meeting every five consecutive years and utilise minimum level of services;

Section 27 - voting rights- @ one only and in order of names in the share certificate; 27 (3A) -right of voting only after two years; Section 27 (8) and (10)-no voting right to a defaulter and to a nominal member;

Section 28-share holding- restriction on-1/5 of total share capital Or Rs 20,000.00 or limit as notified by government;

Section 29- restriction on transfer of shares- share holding for a period of minimum one year;**Section 30 Death of a member** and transfer of his share and interest [Rule 25- nominations- during the life-time only, to be



When you start caring about yourself, you start loving somebody, but when you start caring about others, somebody will start loving you.

recorded in I register kept under Rule 32, otherwise follow the legal procedure;]

Section 32 - right of Inspection and copy.

Section 37 - address of the society

Section 38 - (detailed) register of members; form I –Rule 32 and **list of members** in form J-1 - [active members] and J-2-[inactive members] - Rule 33.

Section 43- Restriction on borrowing - as per bylaws of the society; [**Rule 35 to Rule 38 and Rule 39[2] and [3]**]- ten times [twelve times for central and urban banks and producers' societies] of three specified items only-paid up capital, reserve fund, building fund as reduced by accumulated losses.] [Rule 39-types and division of authorised capital-number, amount and face value etc.]

Section 64- dividend or bonus out of profits or / and dividend / bonus equalization fund

Section 65 - ascertainment ('in the manner prescribed') and appropriation of profits for bonus, dividend and creation of reserve fund- Approval of annual general meeting (not any other meeting)- **[See Rule 52 also.** It prescribes that the **rate of dividend** cannot exceed the rate as recommended by the committee.]

Rule 49A: -Ascertainment ('in the manner prescribed') of [distributable] profits: - Deductions: -

[01] interest receivable as accrued or accruing on overdue loans [given]; [02] interest payable on loans and deposits; [03] establishment expenses; [04] audit / supervision fees; [05] working expenses- repairs & maintenance, taxes-on property, etc. [06] depreciation; [07] bonus; [08] income-tax due,

[09] Education fund; [10] Election fund; [11] BDDR; [12] share capital redemption fund-?[-Rule 51 also.]; [13] Investment fluctuation fund; [14] Retirement benefits; [15] statutory claims under other laws; [16] other losses not met from any other fund; [17] advertisement expenses as specified by Registrar or Govt.; [18] Sinking Fund / guarantee fund[-Rule 51

also.]; Profits as ascertained above and increased by amount of profit brought forward shall be the profit available for distribution.

Rule 49-procedure to write off [1] Bad debts and [2] losses: -

[1] Bad debts=loan, interest, recovery charges-[i] found irrecoverable by the committee, [ii] certified by the statutory audit appointed U/S. 81, [iii] to be approved by the general meeting with separate item on the agenda, [iv] approval of the Registrar [except immediate last year audit class A / B societies and [v] if required, from the Central Bank / state co-operative bank. **Accounting:** - to be adjusted firstly against the BDDR, then against the reserve fund [and then against capital.]

[2] Other dues and accumulated losses: - [1] - other dues and accumulated losses [i] found irrecoverable by the committee, [ii] certified by the statutory audit appointed U/S. 81, **Accounting:** - to be adjusted against the reserve fund [and then against capital.]

Section 66- Reserve fund- minimum 25% of NP and investment as per Section 70. **Section 70-** investment of funds- only in the approval manner- (what is the exact coverage of capital and reserves and of funds?) [**Rule 54** also permits the investment of reserve fund in to the immovable properties with the prior approval of the Registrar.] Reserve fund is **not to be used for any purpose** except with the prior approval of Registrar-**Rule 54(2)-all societies and 54(3)-housing societies.** If approved category banks are not eligible, Govt. or Registrar may permit other modes of investments.

Section 67- restriction on payment of dividend- maximum 15%. Otherwise permission from the registrar [See **Rule 52** also prescribed that the **rate of dividend cannot exceed the rate as recommended by the committee.**]**Section 68- contribution is required to be made to the education fund** by 30th June each year. Rate are as per rules [**as per table given below Rule 53**] and is only up to F Y 12-13. From 13-14, **Section 24A** is



People do not change when you tell them a better option. They change only when they realize that there is no other option.

applicable for payment of education fund at the rate as per the rules.

Section 69- contribution for public purposes

-**[See also Rule 50]:** -

20% of net profit left after Reserve fund and education fund may be used for charitable purposes (as defined in Section 2 of The Charitable Endowments Act, 1890, or for co-operative purposes. Prior approval of federal society is required for using it for co-operative purpose

Section 72: - '**Final authority**' of the society always vests in General body through the medium of the Annual General meeting.

Section 73 [and section 77A]: -The 'management' of the society is vested in the '**committee**' [may be called as managing committee or as the board of directors or by any other name.] It is responsible for all the decisions and acts and omissions detrimental to the interests of the society.

Rule 57 prescribes that no officer of a society shall have any **direct or indirect personal interest** in any [a] contract made by or with the society or [b] property purchased or sold by it. Definition of 'officer' as given in Section 2 (26) is used with a very wide coverage.

Section 73AAA: - Constitution of Committee- maximum number-21 [except co-operative banks], maximum two expert directors and a functional director.

Section 73C: -Reservation of seats for women members on the committee

Section 75: -and Rule 60 and form X: -Annual General Body meeting: -[1] **Audit** to be completed **before** 01st August every year and Annual General body **meeting** to be held **before** 01st October every year. Notice is required to be issued in form X. [2] **Minimum documents** to be placed before the meeting: - [a] audit report with financial statements-PL, BS, [b] annual report of the committee [including changes in business during the year], [c] proposed distribution of profits-reserves- dividend, other, [d] proposed amendments of the bye-laws, [e] particulars of election last held, [f] budget for the next

year, [g] rectification report of earlier year particulars, etc. [3] Appointment of auditors from panel of auditors maintained by the government -**Form X**

Exception: -

Rule 59 provides for the **first annual general meeting** to be convened within a period of three months from the date of registration by the Chief Promoter. It also provides for the business to be transacted therein

Rule 61 prescribes that the society shall **prepare its [final accounts]** Receipts and Payments Account, Profit and Loss Account and Balance Sheet **within forty-five days** of accounting close and **forward to the auditor** for audit thereof.

Rule 62 prescribes that the **Profit and Loss Account and Balance Sheet** shall be prepared in **form N** given in Rules. It also prescribes that the same **should be displayed on the notice board** of the society **fourteen days before the date of general meeting.**

Rule 65 prescribes that the **following records shall be kept by the society:** -Registers of members-[I, J-1, J-2] and of shares; attendance and proceedings of meetings of general body, committee and of sub-committee, cash and bank book, general ledger, stock register, property register-**form X-1**, register of appointments of auditors and of audit objections,

Section 79 [1A]: -and Rule 67-form Y: -Returns to be filed with the Registrar- within six months from the end of the financial year-[on the lines of documents placed before the annual general meeting] in form Y electronically within six months of close of the financial year. **Contents:** -[1] Committee Report, [2] Audited statements-PL, Bs; [3] appropriation of profit; [4] amendment to bye-laws; [5] details of elections held and due; [6] details of AGM last held; [7] letter regarding appointment of auditor with resolution, his consent and remuneration fixed; [8] O form; [9] details of education and training of the staff, members and committee; [10] payment of education fund; [11] provision for election



fund; [12] Status of active and non-active members.

Section 81 read with rule 69: -Audit: -

[a] Accounts to be got **audited by 31st July every year** from the auditor to be appointed from the panel of auditors prepared by the government. [Limit on audit-twenty societies excluding societies having paid up capital '**less than**' Rs. 1.00 lakh. Audit fees are fixed as per Rule??.

[b] Audit report should also deal with [i] the **financial irregularities or misappropriation, frauds** or embezzlement, the modus operandi thereof and amount involved; [ii] the **accounting irregularities** and its effect on financial statements;

[c] Audit is required to be carried out as the **Auditing [and Assurance] Standards notified** by the state government. Auditor is required to **examine or verify** the items like [i] **overdue debts** and [ii] **cash balance, investments and other assets and liabilities.**

[d] He is also required to **examine** (with vast powers vested in him) [i] **loans and advances** with special reference to **securities** and **terms and conditions** thereof and if the same are shown as deposits, [ii] **reliability of transactions** entered in to only by means of **journal entries**, [iii] if expenses of personal nature are debited to expenses account [or are even capitalised], [iv] end use or **application of funds borrowed** by the society, and [v] expenses incurred by the society in furtherance of its objects.

[e] If he finds that a person is **guilty of any offence relating to accounts** of the society, he is duty bound to [i] file a **specific report** with the Registrar within fifteen days of such finding, and [ii] file a **First Information Report** with the permission of the Registrar.

[f] In order to ensure his independence and transparency in his working, auditor is required to be served with the **notice of annual general meeting** of the society he has audited and he has a right to **attend the said meeting** and also to be of being **heard therein**. He also has a right to **impound the books** [after

informing the Registrar] if he is satisfied that there are incriminating documents.

[g] Audit report is required to be **submitted [i] within a month** from the date of conclusion of the audit and [ii] **before issuance of the notice of annual general meeting.** The report [along with audit report, audit certificate, and audited financial statements] is also required to be **uploaded on the website** of the co-operative department. **Form-[PL. BS] N, N1 and form N2** are prescribed forms for giving audit reports of co-operative banks and other societies- Rule 69 [3].

[h] If he finds that there are **losses suffered by the society due to the financial irregularities** in the accounts of the society, he is duty bound to file a **special report** with the Registrar with his audit report.

The registrar has the power to 're-audit' the accounts of the society at his own motion or at the instance of the applicants.

The Reserve Bank of India has the power to conduct '**special audit**' of the accounts of the Co- operative bank and direct the auditor to send '**special audit report.**'

As regards the **contents of the auditors,** matters specified in **rule 68 [3] to [7]** are needed to be kept in mind by the auditors.

Procedure of preparing the panel of auditors and their eligibility to conduct the audit is given in **rule 69 [1] [f].** Sub-rule [vii] thereof gives the **classes of societies and eligibility of the auditors** there for. Provisions contained in rule 69 [1] [g] regarding **removal of the name of auditor** from the panel of auditor need to be strictly followed by the auditors. Rule 69 [9] provides for the award of **audit classification** letter to be given to the society.

Section 82:-Rectification report: -Society is required to submit rectification report **within three months** from the date of receipt of audit report on the defects in the working of the society to the Registrar. **Auditor is required to offer his remarks** on the compliances made by the society **until full rectification is made**



by the society.

Section 145 prohibits the use of the word 'co-operative' in an unauthorised manner.

A separate chapter No. XIII-B is inserted with effect from 09th March, 2019, in the Act, specifically dealing with the **housing societies**. Various provisions are made applicable to such societies and are accordingly covered by the provisions of the Act. Various provisions are also made inapplicable to such societies and are accordingly exempted from the provisions of the Act.

Sub-rule [2] of 107A: - This sub-rule provides for the rate of daily allowance and sitting fees for different types of societies.

• **Sub-rule 107B-Security:** -It provides for the security to be furnished by the officers and employees handling cash. It ranges from Rs. 500.00 to Rs. 2,000.00 based on paid up capital-up to Rs. 1,50,000.00 or more than that as under:

	Officers	Employees
Up to Rs. 1,50,000.00	Rs. 1,000.00	Rs. 0,500.00
More than that	Rs. 2,000.00	Rs. 1,000.00

Sub-rule 107C-Maximum cash balance: -It provides for the maximum cash balance allowed to be kept on hand by different types of societies. Maximum Rs. 500.00 for Taluka co-operative supervising unions, Rs, 1000.00 for Labour contract societies and Rs. 5,000.00 for dairy societies. In respect of many societies, this limit is Rs. 10,000.00. **See rule for reference.**

Rule 107D: -Payments to be made by crossed cheques only: -subject to provisions of The Income- Tax Act, 1961.

Important provisions of The Maharashtra Co-operative Societies Rules, 1961:-

Important definitions: - 2 (f) Form –form as is appended to the rules

<u>Form number</u>	<u>Purpose</u>	<u>Section</u>	<u>Rule</u>
A	Application for registration for a society	08	04
H-1	Application for membership of a society	23	19A
I	Register of members	38	32, 65[1]
J	List of members	39	33
J-1	List of active members	26	33
J-2	List of non-active members	26	33
N	Balance Sheet and Profit and Loss account	75	62[1]
N-1-Banks/N2-other	Audit Report	81	69[3]
O	Rectification of audit objection	81, 82, 87	73
W	Classification as a non active member	26	20A [2]
X	Agenda for the annual general meeting	75	60[3]
Y	Annual returns to the Registrar	79	67





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