



**THE INSTITUTE OF
CHARTERED ACCOUNTANTS OF INDIA**
(Set up by an Act of Parliament)

NEWSLETTER

Issue No. 11

PUNE BRANCH OF WIRC OF ICAI

HAPPY
Diwali
FESTIVAL OF LIGHTS

November 2021

(Subscribers copy not for sale)

Grand Finale of (Kaun Banega Chatur Chanakya) KBCC 2.0



Box Cricket Tournament for Members & Students



Welcome to ICAI Family (For Newly Qualified CA Members) and Distribution of Various Prizes to CA Final/IPCC/Foundation Exams Rankers from Pune



Dignitaries



Felicitation of Rank Holders



Felicitation of Newly Qualified CAs



CA. Ambarish Vaidya - Speaker



Participants

Chairman's Communique

Dear Members,

As this month is full lighting with the celebration of Diwali. We will be celebrating Diwali with social distancing and following all the norms. I would like to wish you all a Happy and Safe Diwali & Prosperous New Year.

Diwali is the biggest festival among all; it is the victory of Lord Ram over Ravana after slaying demon king Ravana, the King of Lanka, and completing his 14 years of exile. This means celebrating victory of the Good over the Evil and Light over Darkness. We also hopes that the whole world will make the victory over latest Ravana i.e. Covid 19.



CA. Sameer Ladda
Chairman
Pune Branch of WIRC of ICAI

In the month of October, many physical & virtual CPE meetings were held on the topics like Growing your Professional Firm in the Post Covid World (Physical), Code of Ethics, Ultimate Fitness & Self Defense, Sustainable & Profitable Growth For Your Business, Professional Opportunities in RERA Compliances, Certificates and Audit, Virtual DT National Webinar on "Capital Gains on Transfer of Immovable Property and Deemed Income Under Income-tax Act, 1961, Three Days Refresher Course for preparation of IBBI Limited Insolvency Examination, Withholding Taxes on Payments to Non Residents, Work Life Balance Over Hyped or Underrated, Training Programme on Excel and PDF Adobe.

After long time in the history of Pune Branch we organized event of Newly Qualified Members **"WELCOME TO ICAI"** over 200 Newly Qualified Members enjoyed this event.

We conducted Kaun Banega Chatur Chanakya (KBCC) 2.0 for all over WIRC region members & around 350 members registered for contest. We congratulate all the participants. Special congratulation to the **Winner CA. AMAR AHUJA, Indore, Runner Up CA. Girish Laddha, Aurangabad** & all the finalists CA. Nipun Sikri, Pune, CA. Nikhil Thakkar, Pune, CA. Jhankhana Shah, Mumbai.

We organized first time Box cricket tournament for members & students. We congratulate all the team for their enthusiastic participation. I thanks to our title sponsor "Archers Wealth" & team Sponsors. Congratulations to winner team B S M A R T AND ASSOCIATES LLP, Runner Up SPAY WARRIORS, Second Runner Up SPCM STRIKERS & all the man of the match, man of the series, best bowler & fielder etc.

We also conducted students programme like Virtual Programme on Advance Function in Tally Prime for CA Students, Talent Search programmes, Mock Test series-I.

We are planning to organized interactive meet with Hon. President CA. Nihar N. Jambusariya sir & Dr. Bhagwat Kisanrao Karad Saheb, Minister of State in the Ministry of Finance, Member of Parliament, Rajya Sabha, 2nd Series of mock test for students.

Wishing you all a happy and safe Diwali.

CA. Sameer Ladda,
Chairman, Pune ICAI

Past Chairman's Communique

Dear Members and Students of Pune Branch of WIRC of ICAI,

let me take an opportunity to wish you all on the occasion of the **Diamond Jubilee** celebration year of Pune Branch of ICAI.

It gives me immense pride to be a member of Pune Branch of ICAI.

I'm blessed to have had an opportunity to serve our Alma Mater as a Managing Committee Member and office bearer of one of the largest branches of ICAI, during the tenure 2013-2015.



CA. Rajeshkumar Patil
Past Chairman (2014-2015)
Pune Branch of WIRC of ICAI

The Pune Branch of WIRC of ICAI has always been a frontrunner in terms of the academics, social activities and winning numerous honours, accolades and various awards, bestowed upon by the Institute of Chartered Accountants of India and Western India Regional Council of ICAI.

We, the Managing Committee were blessed with the kind and knowledgeable guidance of the senior members of Pune Branch and an enormous support from the dynamic young members, students and staff of Pune Branch of ICAI.

I once again congratulate all of you on the completion of 60 successful years and with everyone's continuing support, I hope that the Pune Branch of WIRC of ICAI reaches new heights in terms of achievements and success.

Regards,

CA. Rajeshkumar Patil



Testimonial for Three Days Refresher Course for preparation of IBBI Limited Insolvency Exam

It was a privilege to once again share my experience and understanding of Insolvency and Bankruptcy Code with Pune Branch. What was inspiring from organizers - a unique situation this time - due to unavoidable external circumstances there was need for coordinating between speakers for program. I realized the minute to minute coordination efforts by ICAI and IIPICAI are in mission mode to provide the maximum to participants - which would always would have been in past. This displayed and reaffirmed that CA, IIPICAI and ICAI stand for excellence.

Indeed a privilege to be sharing knowledge with learned participants and gaining inspiration, client orientation and mission approach from the organizers.

Thanks & Regards,
CA Devang P. Sampat

Seminar on Growing your Professional Firm in the Post Covid World



Inauguration



From L To R (Speakers):- CA. Ameet Patel, Mr. Suman Basu, CA. Nandita Parekh, CA. Nandita Parekh



Participants

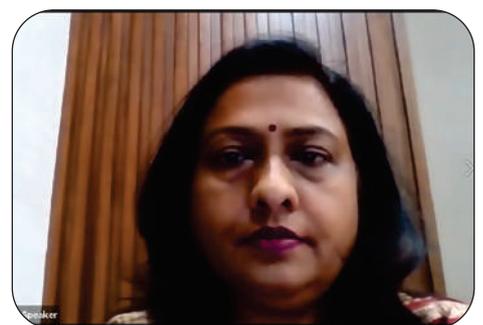
3 Days Refresher Course for preparation of IBBI Limited Insolvency Examination



CA. Aneetha S - Speaker



CA. Avil Menezes - Speaker



CA. Anuradha Gupta - Speaker



CA. Devang Sampat - Speaker



CA. Pravin R Navandar - Speaker



CA. Ritesh Mittal - Speaker

Whether GST is Applicable to the Charitable Trust?

Contributed by :- CA. Vaishali Kharde

Email :- khardevaishali@gmail.com

The Maharashtra Authority for Advance Ruling (MH AAR) recently held that Charitable Trusts are liable to pay GST on the services rendered on grants and non-philanthropic donations received by them unless covered under Charitable Activity. So, let's decode whether GST is applicable on donations received.

AAR's findings in the case of Jayshankar Gramin Va Adivasi Vikas Sanstha Sangamner ('JGVAVS' or 'the Trust').

The JGVAVS trust approached to MH AAR to determine the applicability of GST on grants or donations received by the trust for services to orphans and homeless children (like shelter, education, guidance, clothing, food, health etc.) or Services to destitute women (like shelter, food, medical facilities, clothing etc.).

According to MH AAR, if consideration is received for those activities listed under Sr No. 2(r) of Not. 12/2017 – CT (R) as charitable activities, then only exempt from GST. Thus, donations received for all other activities that are not specifically Charitable Activities are taxable. (Para 5.8)

Additionally, AAR observed that the term "consideration" as defined under Sec 2(31) of the CGST Act **includes 'grants'** and excludes **only "subsidy"**. Thus, grant received will form part of the consideration for the purpose of the levy of GST (Para 5.14.3).

According to MH AAR combined reading of all relevant definitions of GST Law including that of the "business" profit motive is not important (Para 5.14.3). Thus, activities under consideration carried out by the trust are for furtherance of business.

Thus, the receipts from the Government in the form of grants or the donations received for non-charitable activities are liable to GST.

The reference to the para given below of Circular No. 116/35/2019-GST is also relevant before decoding further,

*It may be noticed that there is no reference or mention of **any business activity of the donor** which otherwise would have got advertised. Thus, where all the three conditions are satisfied namely **the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e. it leads to no commercial gain)** and not advertisement, GST is not leviable.*

What Does the GST Law Say?

Amount received by the charitable trust for social activities can be of below nature.

- Donation received without any direction
- Donation received for specific activity
- Donation received for specific activity with specific direction to share the details of outlay for specific activity.

Now, the activity performed must fall within the scope of supply as prescribed under Section 7 of the CGST Act in order to levy GST.

Section 7 (1) For the purposes of this Act, the expression —supply includes—

*a) **all forms of supply** of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal **made or agreed to be made for a consideration** by a person **in the course or furtherance of business;***

As a result, the following three ingredients are required to cover activity within the scope of supply.

1. Supply includes all forms of supply of **goods or services or both**
2. It should be **made or agreed to be made for a consideration**
3. It should be **in the course or furtherance of business;**

Thus, to levy GST on donations, all of these aspects must be present in the transaction.

The first aspect is that supply should include all forms of supply of goods or services or both; thus, a monetary transaction or a donation **without any obligation to supply goods or services or both does not constitute supply.**

As previously stated, "Consideration" is one of the legal ingredients of the scope of supply. The term "Consideration" has been defined under Section 2 (31) of the CGST Act read as under

"Consideration" in relation to the supply of goods or services or both includes–

*(a) **any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.***

As per this definition, consideration may be paid by the recipient or any other person. Thus, it is irrelevant who is paying consideration. However, the definition uses the phrase **'in respect of, in response to, or for the inducement of, the supply of goods or services or both'**. As a result, consideration should be in respect of supply or directly related to supply. A critical aspect is that consideration should be paid for goods or services provided, and the two should be linked. Furthermore, the term "Payment" even not defined under GST law, as per the dictionary meaning:

'Payment' is the discharge of an obligation by the delivery of money or its equivalent, and generally made with the assent of both parties to the contract. [Refer 'The Law Lexicon']

Donations are always made without any obligation or in the form of voluntary contributions, even if they have a specific purpose. If there is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything against amount received then amount received will not qualify as consideration.

Further, MH AAR observes that activities undertaken by charitable trust can be treated as an **activity in relation to business** unless mentioned under exemption entry.

However, before concluding the levy of GST in the case of trust, it most important to construe whether the trust is carrying out activity in relation to business or whether the trust can be treated as an 'Business Entity'. As per Section 2(17) of the CGST Act business includes

*(a) any **trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity** whether or not it is for a pecuniary benefit;*

Thus, it is true that profit is not the key aspect for qualifying entity as business. However, the activity carried out by the entity should be of the nature of trade, commerce, manufacture, profession, vocation, adventure, wager or **any similar activity**. The activity of the trust does not fit in to any of such similar activity.

Erstwhile, in the case of Sai Publication Fund [2002 4 SCC 7 (SC)] it was held that where the main activity is not business, then any incidental or ancillary transaction, unless established by the Revenue Department to be an independent business transaction, will also be considered as charitable only and not business. Additionally, the Hon'ble Supreme Court observed that if the main and dominant activity of the assessee trust in that case was to spread message of Sai Baba, then bringing out publications and sale thereof by the assessee trust to its devotee at cost price did not amount to business.

Similarly, the observation of courts in various cases like Gujarat Maritime Board [2007 14 SCC 704 (SC)], Cutchi Dasha Oswal Mahajan Udyog Committee [36 STC 1 (BOM-HC)] etc. would also be required to be taken into consideration before concluding that the certain transaction of trust is in the course of business.

As a result, some of these factors are relevant and should be considered before imposing GST liability on donations received.

Way Forward

This ruling will undoubtedly add to the litigation for all Charitable Trust from the start, by requiring them to get registered under GST and discharge GST liability with interest. Thus, the Charitable Trust should reconsider its various activities in the light of possibility if GST levy. In addition, the Trust should prepare and implement the step plan as per the risk parameters determined in order to mitigate the risk based on the nature of activities.

(The Author is a Chartered Accountant, Founder and CEO of CA Vaishali B Kharde and Company. The author has authored and co-authored books on GST and litigation)



VCM on "Code of Ethics"



CA. Rasika Date - Speaker

VCM on "Sustainable & Profitable Growth For Your Business"



CA. Shandilya Oza - Speaker

Training Programme on "Excel and PDF Adobe"



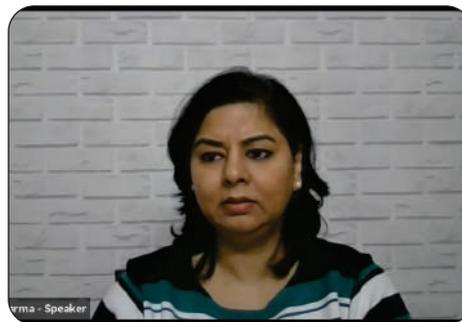
CA. Vaibhav Doshi - Speaker

VCM on "Withholding Taxes on Payments to Non Residents"



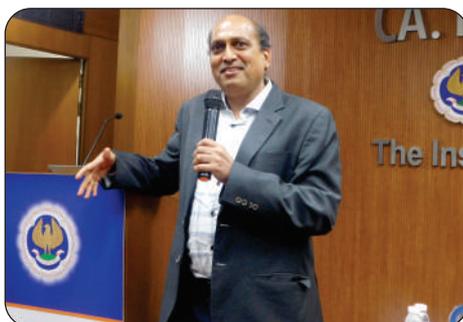
CA. Karthik Mehta - Speaker

VCM on "Work Life Balance Over Hyped or Underrated"



CA. Sandhya Sharma - Speaker

Seminar on "Professional Opportunities in RERA Compliances, Certificates and Audit"



CA. Ramesh Prabhu - Speaker



CA. Amit Mohare - Speaker

How is Business Transacted through E-Commerce?

Contributed by :- CA. Suraj Agrawal

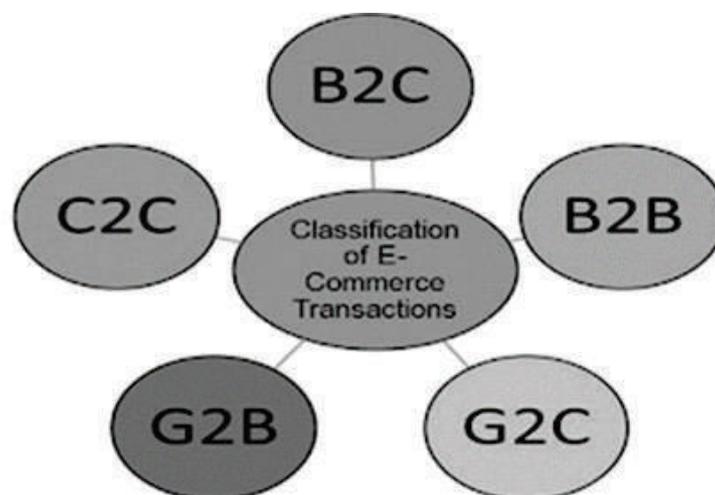
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E-commerce is a method of conducting business transactions and not a business transaction by itself. Therefore, the contents of a business transaction done through e-commerce means is no different from that of a business transaction carried out through traditional means. New business models expand the e-commerce frontier in two ways.

- First, new business models can enable more transactions to move online in a given market or for a given set of participants.
- Second, new business models can enable whole new markets to emerge for goods and services that previously could not have been bought or sold online, or allow new participants to enter the market.

Digital technologies enable e-commerce innovations and often serve as the backbone of business model developments. Some of these technologies, like smart assistants enabled by artificial intelligence (AI), constitute new channels for selling or purchasing products over electronic networks. Similarly, online payment innovations can help to unlock e-commerce potential by promoting trusted online transactions between unknown parties.

Classification of E-commerce based on parties involved in transactions. Major types are mentioned below:



(I) Business to Customers (B2C):

In this type of e-commerce, transactions take place between businesses and consumers. In B2C e-commerce, products or services are sold to end-users (i.e. consumers).

Examples: Amazon.in, Flipkart.com, Myntra.com, Snapdeal.com etc. are the examples of B2C e-commerce businesses, where consumers can find almost anything be it books, electronic products like washing machines, USB storage devices, clothes, shoes or personal care etc.

(ii) Business to Business (B2B):

In B2B e-commerce, transactions take place between two businesses.

Example: IndiaMART, TradeIndia, Alibaba, go4WorldBusiness.com (an online B2B marketplace for global exporters and importers), Amazon, the US-based ecommerce giant etc are the example of B2B online platforms.

(iii) Government to Customers (G2C):

The online platform between a government and its citizens or consumers for paying taxes, registering vehicles, and providing information and services such as filing of income-tax return etc.

(iv) Government to Business (G2B)/ Business to Government (B2G):

In G2B/ B2G e-commerce, an electronic exchange of any information between businesses and the government, usually using internet so the cooperation or communication takes place on the internet. In G2B, government agencies and business use websites, procurement marketplaces, applications, web services.

Example: Government e-Marketplace (GeM), a one stop portal to facilitate online procurement of common use Goods & Services required by various Government Departments /Organizations / PSUs.

INAM-Pro is a web based application, designed by National Highways and Infrastructure Development Corporation Ltd (NHIDCL) and launched by the Ministry as a common platform to bring cement buyers and sellers together.

(v) Customer to Customer (C2C):

When goods or services are bought and sold between two consumers, C2C e-commerce business takes place.

Example: Olx, an C2C e-commerce online platform where customer sells his used goods to other customer; eBay, an online marketplace in which an individual sells a product or service to another.

E-Commerce Business Models

With the advancement of digitalization and emergence of new technologies, new forms of e-commerce business models have evolved. Some of such ways of transacting e-commerce business are discussed here below:

Online platform e-commerce business model:

In the context of e-commerce, online platforms act as intermediaries between buyers and sellers to facilitate the exchange of goods and services over the Internet. Buyers benefit due to the presence of variety of products available with diverse sellers. Likewise, sellers discover many buyers to whom they can sell their products. As compared to the physical stores, digital marketplace deliver variety of goods and service.

Meaning of Marketplace based model and Inventory based model of e-commerce:

Marketplace based model of e-commerce means providing of an information technology platform by an e-commerce entity on a digital & electronic network to act as a facilitator between buyer and seller.

Inventory based model of e-commerce means an e-commerce activity where inventory of goods and services is owned by e-commerce entity and is sold to the consumers directly.

Subscription e-commerce business model:

Subscription business model is characterized by regular and recurring payments for the repeated provision of a good or a service. The subscription business model can relate to recurring purchases of digital goods and services, or a combination of both digital and tangible products (such as a newspaper subscription that includes access to digital content). Some current e-commerce subscription business models, such as Spotify or Netflix etc.

Digital identity and its potential for e-commerce:

Digital identity refers to the set of information used by a computer to authenticate an identity. For example, India's Aadhaar programme issues a unique number to every Indian citizen which is a valid means of identification vis-à-vis the government as well as private Internet sites including Airbnb, Uber and digital wallet services.

Subscription access to tangible and bundled goods and services:

A recent e-commerce trend has been the growth of subscription business models for tangible goods, including in categories like beauty supplies (Birchbox), minerals (Celestial Minerals), groceries (Blue Apron, Hello Fresh), snack foods (Nature Box), cosmetics and self-care products (Dollar Shave Club, Harry's), and many more.

Online-offline e-commerce business models:

These business models serve as extensions of e-commerce, pushing the edges of online purchases into physical stores. Some business models combine online ordering with offline distribution, which may be useful to enable the online purchase of products whose quality may not be assessed from a distance, such as perishable goods like groceries. Many businesses have taken advantage of the ubiquity of digital technologies to grow business models based on a combination of both online and offline features. Other online businesses are moving offline by adding brick-and-mortar elements to enable the online sale of other goods, like clothing, where fit may be difficult to assess from a distance.

Mobile technologies - Helping e-commerce to flourish in brick-and-mortar stores:

Mobile technologies empower consumers to perform a range of digital activities, including online shopping. Consumers use digital technologies throughout the commercial process, but smartphones enable buyers to compare prices, to do research and finally make transactions from any networked location. A Google survey found that 82% of surveyed consumers research products on their smartphones before making purchases in brick-and-mortar stores.

Online groceries – A new e-commerce frontier:

Many businesses have tried to develop processes to successfully sell perishable food and groceries online. Some online business models offer direct shipping of purchased groceries alongside guarantees related to quality and customer satisfaction to give consumers confidence in the purchase of perishable goods and services. This model, however, necessitates the development of a cold-chain direct fulfilment and logistics system, which made this model expensive.

Innovative payment mechanisms:

Safely and remotely exchanging money online, including across borders, is fundamental to e-commerce. Safe and effective online payment mechanisms facilitate trusted online transactions, boosting the growth of e-commerce between unknown buyers and sellers. Many online payment mechanisms are closely associated with the rise of e-commerce. In fact, one of the earliest online payment models is "Paypal", which emerged in combination with the pioneering online auction house and e-commerce platform eBay, to enable safe online payments between the parties involved.

Digital wallets:

An online payment can be broadly considered to be a "purchase order placed using devices connected to the Internet", a definition that is relevant to many forms of e-commerce. One mechanism of enabling online payments includes the use of digital wallets, also known as "e-wallets" or "electronic wallets".

Digital wallets allow e-commerce by enabling trusted transactions online, without which most e-commerce purchases would not be possible. Consumers may be more willing to do a transaction online using a digital wallet as opposed to directly sharing financial information with online retailers.

Mobile money - Extending e-commerce to the unbanked:

Another form of payment innovation that enables e-commerce is the rise of a specific form of mobile payment, also known as "mobile money", particularly for unbanked people (i.e. those without access to financial services). Mobile money differs from digital wallets insofar that the mechanism for payment is conducted via mobile communication networks, and does not necessarily require an existing relationship with a financial services provider.

Mobile money is facilitated by mobile network operators who use a system of agents to accept regular currency in the form of cash and store an equivalent value in a digital wallet, which can then be transferred to other users or can be withdrawn later. Mobile money is connected with a mobile phone number and often uses two-factor authentication through a personal identification number issued at the point of registration. Mobile money can be transferred to others who are also registered with the same mobile money system, exchanged with merchants for goods and services, or can be withdrawn as cash from a mobile money agent. Mobile money can therefore act as a means of storing and transferring value in a secure and convenient way for unbanked people.



Virtual Programme on "Ultimate Fitness & Self Defense"



Trainers :- Mr. Saurabh Nirmal & Mr. Chaitanya Inamdar

Pune Branch of WIRC of ICAI

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