

# NEWSLETTER

# MAR - 2020

## INCOME TAX BAR ASSOCIATION, RAIPUR

### 'Vivad Se Vishwas' Scheme



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**Email**

**[itbarraipur@gmail.com](mailto:itbarraipur@gmail.com)**

**Website**

**[www.itbarraipur.org](http://www.itbarraipur.org)**



# President's communiqué



CA B. SUBRAMANYAM

Dear Members,

Finance Bill, 2020 as well as Direct Tax Vivad Se Vishwas Bill 2020, tabled in Lok Sabha in February, are likely to be passed after Parliament reconvenes on 2<sup>nd</sup> March, 2020. It targets to bring down the 4.83 Lakh direct tax disputes pending in various appellate forums, including courts, involving Rs. 9.32 Lakh Crore, which translates to about 5% of India's gross domestic product (GDP).

## TAX TUSSEL

Amount under dispute ( in Rs. Crore) as on 30<sup>th</sup> September, 2019;

- Over 1 year but less than 2 years 6,38,432 (3.4% GDP)
- Over 2 years but less than 5 years 3,12,655 (1.6% GDP)
- Over 5 years but less than 10 years 31,526 (0.2% of GDP)
- Over 10 years 14,180 (0.1% of GDP)

The Government's November, 2016 decision to ban certain currency notes had come as a shock to people with unaccounted wealth. It helped the Income Tax Department identify and go after high-value bank depositors. That led to a lot of tax disputes as the depositors contested the department's claims. Now, some of them who were served tax notices and in some cases faced Income Tax Department's surveys and raids before getting tax demands may find a remedy in a Government Scheme, Vivad Se Vishwas, 2020.

The scheme also aims to mop up some tax revenue, as the Government expects direct tax collection to fall short of the target of Rs. 13.35 Lakh crore for the current financial year. The details of Direct Tax Vivad Se Vishwas Bill 2020 are incorporated elsewhere in this news letter.

Recently, our IT Bar Association got an opportunity to felicitate our Pr. Chief Commissioner of Income Tax (MP & CG) Shri. A.K. Chouhan at Raipur, where we have made representation about some administrative issues being faced by assesses of Chhattisgarh. It is assured by the Pr. CCIT to look into the matters at earliest.

Like every year, our IT Bar is in the process of organising Friendly Sports Tournament with Income Tax Department sometime in the month of March, 2020. Members are requested to take active participation in the Sports tournament.

Our Bar association feel proud to inform you all that one of our member CA. Shanshikant Chandrakar has been elected as Treasurer of Central India Regional Council of the ICAI for the year 2020-21. I am also pleased to inform your all that our IT Bar Association's Vice President-II as well as Chairman of News letter editorial board CA. Gulab Chandra Kedia has been Co-opted as member of " Banking, Financial Services and Insurance Committee" of ICAI for the year 2020-21. Our Association congratulates and wishes them best of luck for the new assignment.

# President's communiqué

I would request all the members to kindly give suggestions for improvement of the bar activities so that we can plan the programme accordingly that cater to the need of the members. Your active participation in the activities of the bar association will definitely encourage us.

Looking forward to continued support and guidance from all the members.

Yours Sincerely

CA. B. Subramanyam  
President, IT BAR, RAIPUR



CA VINAY SHARMA

On 1<sup>st</sup> February 2020, Hon. Finance Minister announced Amnesty Scheme, however Cabinet has proposed certain amendment which is proposed to be placed before Parliament in First Week of March. Here are some of the proposed amendments.

### **Beneficiary of Vivad Se Vishwas Scheme**

This scheme covers any assessee, who not later than as on 31.01.2020 is aggrieved by any order which falls within time limit to file appeal or of any appeal is filed the same stands pending before CIT(Appeals), ITAT, High Courts, Supreme Courts, Cases pending before DRP (Dispute Resolution Panel) or the cases where DRP issued directions but not the final Order upto 31.01.2020.

Any revision petition filed u/s 264 on or before 31<sup>st</sup> Jan 2020 has also been taken into this scheme's purview. Search cases where disputed demand is less than Rs 5 Cr. (Year wise) has also been included to lure the taxpayers and release the burden from the judiciary.

The pending appeal may be against assessment order or reassessment orders whether related to Disputed income or disputed tax along with disputed Penalty/ Fees/ Interest or Orders against matter related to Tax deduction at source.

In this scheme, certain orders are not covered i.e. where demand arises due to non-disclosure of income from a source outside India or from undisclosed assets placed outside India, where order of detention is made under Foreign Exchange and Prevention of Smuggling Activities Act 1974, where assessment or reassessment proceedings are pending against tax arrears related transfer pricing related matters, where disputed demand in search-related matters is more than 5 Cr. or when prosecution initiated under income tax Act.

### **Vivad Se Vishwas Scheme Mechanism**

The simple procedure is provided to avail benefit under the scheme:

**STEP 1:-** Appellant has to file a declaration as prescribed to the designated authority.

**STEP 2:-** The designated authority shall determine the amount payable by the declarant within 15 days of declaration and Grant a Certificate showing tax or amount to be paid and the manner in which it has to be paid. Apart from the payment, the declarant has to provide proof of withdrawal of the appeal.

**STEP 3:-** Once certificate mentioning amount payable is issued to the declarant, the declarant within 15 days from the receipt of Certificate will have to pay the same & intimate the details of payment along with proof of withdrawal of appeal/writ to get final order conclusive against which no matter covered therein will ever be opened or investigated for persuasion (This way immunity is given to Appellant).

**Quantum Of Amount Payable Under Vivad Se Vishwas Scheme:-****A) If The Declarant Is Assessee/ Taxpayer And Appeal Was Also Filed By Assessee:-**

NATURE OF TAX ARREARS	AMOUNT PAYABLE UPTO 31 <sup>ST</sup> MARCH 2020	AMOUNT PAYABLE UPTO 30TH JUNE 2020
I. Where tax arrears is the <b>AGGREGATE</b> amount of disputed tax/ Interest or penalty whether charged or chargeable.	Amount of Disputed Tax only.	The aggregate amount of disputed tax (+) 10% of the disputed tax subject to a maximum of interest or penalty charged or chargeable on such tax paid (excess shall be ignored).
II. Where Tax arrears is ONLY related to disputed Interest and penalty/fees	25% of disputed Interest/ penalty/ fees.	30% of disputed Interest/ penalty/ fees.
III. where the matter is related to Search and disputed demand is up to 5 Cr.	125% of the disputed tax, interest and penalty would be completely waived.	135% of the disputed tax, interest and penalty would be waived.

**B) If The Declarant Is Department And The Department Has Filed Appeal And Lost On An Issue:-**

NATURE OF TAX ARREARS	AMOUNT PAYABLE UPTO 31 <sup>ST</sup> MARCH 2020	AMOUNT PAYABLE UPTO 30TH JUNE 2020
I. In the matter of search cases	62.50 % of disputed tax. Interest and penalty would be waived.	67.50% of the disputed tax. Interest and penalty would be waived.
II. Matters other than search cases	50% of the disputed tax. Interest and penalty would be waived.	55% of the disputed tax. Interest and penalty would be waived.
III. Where the dispute relates to ONLY Interest penalty or levy	12.5% of the disputed interest, penalty or levy.	15% of the disputed Interest, penalty or fees/levy.

**Provision Of Refund under Vivad Se Vishwas Scheme**

If the assessee before filing declaration has paid some amount before appellate authorities and such amount exceeds the amount payable under the scheme then he would be allowed refund of such amount.

**Peculiarities:-**

√ If there is more than one issue involved in the appeal and assessee wish to avail the benefits of the scheme then he has to file declaration covering all issues, meaning thereby he cannot file declaration for some issues and litigate the balance in appeal.

√ In a case where an assessee has got a favorable decision on an issue at the higher forum (ITAT or Above), he would be required to pay only 50% of the disputed tax on that issue not only for the said year but also for the other years having same issue.

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CA Vikas Golecha

## E-invoicing under GST

### 1. Introduction to E-Invoice Under GST

The GST Council approved the standard of e-invoice in its 37th meeting held on 20th Sept 2019 and accordingly, on 13th Dec 2019, Government has issued **Notification No 68/2019 CT to 72/2019 CT**, laying down legal roadmap for E-Invoicing. E-Invoicing will be applicable on voluntary basis from January 2020 and mandatory from April 2020 to some class of person.

### 2. Misconception About E-Invoice Under GST

Biggest misconception about E-invoice, in the minds of GST Registered person / Professionals/ Consultant is that, E-Invoice means, preparing Tax invoice on GST Portal. Many people think that e-invoice will be generated from government's tax portal. However, this is incorrect. Invoices will continue to be generated using an Accounting or billing software. Under E-Invoice, Invoice is prepared on ERP software and then JSON file from software will be created and that is required to be uploaded on portal.

Another misconception about E-invoice is that, it is applicable to all GST Registered person. However as per Notification No 70/2019 CT dated 13th Dec 2019, it will be applicable

- » To Registered person whose aggregate turnover in a financial year exceeds Rs 100 Crore and
- » In respect of supply of Goods/Services to Registered Person (B2B)

### 3. E-Invoice Scheme

As per GSTIN, all accounting and billing software companies are being separately asked to adopt the e-invoice standard so that their users can generate the JSON from the software and upload the same on the IRP. All these software would adopt the new e-Invoice standard wherein they would re-align their data access and retrieval in the standard format.

### 4. Benefits From E-Invoice under GST

Government envisaged below benefits from E-Invoice

- Elimination of fake invoices
- Substantial reduction in input credit verification issues
- One time reporting on B2B invoice data, to reduce reporting in multiple formats (one for GSTR 1 or ANX 1 and the other for e-way bill)
- E-Way bill can also be generated using e-Invoice data



## 5. E-Invoice Portal [Invoice Registration Portal – (IRP)]

E-Invoice Portal [Invoice Registration Portal – (IRP)] is going to perform the following-

- Generate a unique Invoice Reference Number (IRN)
- Digitally sign the e-invoice
- Generate a QR code
- Send the signed e-invoice to the recipient of the document on the email provided in the e-invoice

## 6. Steps of Generation of E-Invoice under GST

### STEP 1 – Generation of Invoice and JSON

- Generation of the invoice by the seller in his own accounting or billing system (it can be any software utility/ERP that generates invoice)
- The invoice must conform to the e-invoice (standards). Seller should have a feature in its ERP that will output invoice data in JSON format.
- Those who do not use any accounting software or IT tool to generate the invoice, will be provided an offline tool to key-in data of invoice and then submit the same
- The suppliers (seller's) software should be capable to generate a JSON of the final invoice that is ready to be uploaded to the IRP. The IRP will only take JSON.

### STEP 2 – Uploading of JSON

- Seller to upload the JSON of the e-invoice into the IRP.
- The JSON may be uploaded directly on the IRP or through GSPs or through third party provided Apps)

### STEP 3 – Validation of data by IRP

- If IRN is not generated, then IRP will generate IRN, based on JSON uploaded.
- If IRN is generated, then IRP will validate the IRN, (Based on JSON uploaded) from Central Registry of GST System to ensure that the same invoice from the same supplier pertaining to same Financial Year is not being uploaded again.
- On receipt of confirmation from Central Registry, IRP will add its signature on the Invoice Data as well as a QR code to the JSON.

### STEP 4 – Sharing of E-invoice

- Sharing the signed E-invoice data along with IRN to seller
- Sharing the signed E-invoice data along with IRN to the GST System as well as to E-Way Bill System, will also update the ANX-1 of the seller and ANX-2 of the buyer.
- The IRP will sign the e-invoice and the e-invoice signed by the IRP will be a valid e-invoice and used by GST/E-Way bill system.

### STEP 5

- Returning the digitally signed JSON with IRN back to the seller along with a QR
- The registered invoice will also be sent to the seller and buyer on their mail ids as provided in the invoice.

## 7. QR Code

The QR code will enable quick view, validation and access of the invoices from the GST system. It will be generated by IRP after uploading JSON of invoices. The QR code will consist of the following e-invoice parameters:

1. GSTIN of supplier
2. GSTIN of Recipient
3. Invoice number as given by Supplier
4. Date of generation of invoice
5. Invoice value (taxable value and gross tax)
6. Number of line items.
7. HSN Code of main item (the line item having highest taxable value)
8. Unique Invoice Reference Number.

## 8. Modes of Generation of E-Invoice under GST

Multiple modes will be made available so that taxpayer can use the best mode based on his/her need. The modes given below are envisaged at this stage under the proposed system for e-invoice, through the IRP (Invoice Registration Portal):

1. Web based
2. API based
3. SMS based
4. Mobile app based
5. Offline tool based and
6. GSP based.

## 9. Other Important points of E-Invoices under GST

- Signature on E-invoice – E – invoice generated is not required to be signed again by the The e-invoice will be digitally signed by the IRP after it has been validated. Once it is registered on IRP/GST System, it will not be required to be signed by anyone else.
- E-invoice Currency — Default currency of E-Invoice will be INR. Seller can display the currency in E-invoice.
- Line item of E-Invoices – The maximum number of line items per e-invoice is 100.
- Printing — E-invoice can be printed. It is valid only if it has IRN.
- Cancellation of E-Invoice – The e-invoice mechanism enables invoices to be cancelled. This will have to be reported within 24 hours. Any cancellation after 24hrs could not be possible, however one can manually cancel the same on GST portal before filing the returns.
- E Way Bill — E-Invoice will not replace E-way bill. For transportation of goods, the e-way bill will continue to be mandatory.

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CA YOGESH PUROHIT

## CARO 2020

The MCA has issued the Companies (Auditor's Report) Order, 2020 (CARO 2020), on 25th February 2020. This order has been issued in supersession of the **Companies (Auditor's Report) Order, 2016**, and is applicable for reporting on financial statements of companies whose financial year commences on or after 1st April 2019.

CARO 2020 applicable to every company including a foreign company as defined in Section 2(42) of the Companies Act 2013.

### The following classes of companies are outside the purview of the CARO, 2020

- a) Banking company as defined under Section 5 (c) of the Banking Regulation Act, 1949.
- b) Insurance company as defined under the Insurance Act 1938.
- c) Company licensed to operate under Section 8 of the Companies Act 2013 (companies registered with charitable object).
- d) A one person company (OPC) as defined under clause (62) of Section 2 of Companies Act 2013 (OPC means a company which has only one person as a member).
- e) A small company under Section 2 (85) of the Companies Act, 2013.
  - i. As per sec 2(85) of Companies Act 2013 small company means a company, other than a public company:  
Paid up share capital of which does not exceed INR 50 lacs or such higher amount as may be prescribed which shall not be more than INR 5 crore, and Turnover of which as per its last profit and loss account does not exceed INR 2 crore or such higher amount as may be prescribed which shall not be more than INR 20 crore.
  - ii. The following company shall not qualify as a small company:
    - (1) Holding Company or a Subsidiary Company
    - (2) Company registered under Section 8 of the Act
    - (3) Company of Body corporate government by any special Act
- f) The auditor of following type of Private Companies are not required to comment on the matter prescribed under CARO 2020:
  - (1) A private company which is not holding or subsidiary company of a public company, and
  - (2) A private company having a paid up capital and reserve and surplus not more than INR 1 crore as on the balance sheet date, and

- (3) A private company which does not have total borrowing exceeding INR 1 crore from any bank and financial institution at any point of time during the financial year, and
- (4) A private company which does not have total revenue exceeding INR 10 crore during the financial year. (Such revenue means revenue as disclosed in scheduled III to the Companies Act, 2013 and includes revenue from discontinuing operation)

### A comparative view between CARO 2016 and CARO 2020:

<u>CARO 2016</u>	<u>CARO, 2020</u>	Remarks
Fixed Assets	'Property, Plant and Equipment' and 'Intangible Assets'	Retained with some changes
Inventory	Inventory	Retained with some changes
Loan given by Company	Investment made, provided guarantee or security or granted Loans or advances in the nature of Loans by company	Retained with some changes
Loan to director and investment by the company	Loan to director and investment by the company	Retained, no changes
Deposits	Deposits or Deemed Deposits	Retained with some changes
Cost Records	Cost Records	Retained, no changes
Statutory Dues	Statutory Dues	Retained, no changes (GST included)
–	Unrecorded Income	Inserted
Repayment of Loans	Repayment of Loans	Retained with some changes
Utilisation of IPO and Further Public Offer	Utilisation of IPO, Further Public Offer, Preferential Issue, Private Placement	Retained, no changes (CARO 2016 clause ix)

		and xiv clubbed in CARO 2020 clause x)
Reporting Fraud	Reporting Fraud	Retained with some changes
Managerial Remuneration	–	Deleted
Nidhi Company	Nidhi Company	Retained with some changes
Related Party Transactions	Related Party Transactions	Retained, no changes
Preferential Issue, Private Placement	–	(CARO 2016 clause ix and xiv clubbed in CARO 2020 clause x)
–	Internal Audit Systems	Inserted
Non Cash Transactions	Non Cash Transactions	Retained, no changes
Register under RBI Act 1934, (NBFC)	Register under RBI Act, 1934, (NBFC)	Retained with some changes
–	Cash Losses	Inserted
–	Resignation of Statutory Auditors	Inserted
–	Financial Ratios	Inserted
–	Transfer of Unspent Fund	Inserted
–	Qualification in CARO by Group Auditors of the companies included in the CFS	Inserted

## Major Changes

1. Number of reporting clauses in paragraph 3 have been increased to 21 from the earlier 16 clauses.
2. CARO,2020 focuses on reporting of “Property, Plant & Equipment”. Earlier reporting was required on all fixed assets.
3. Reporting on “Revaluation of PPE” by the company.
4. Reporting of proceedings under the Benami Transactions (Prohibition) Act,1988
5. Reporting in respect of compliance in case of company being sanctioned working capital exceeding Five crore rupees or more from banks or financial institutions.
6. Whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of accounts of the said company.
7. Reporting of investments in or providing of guarantee or security or granting any loans or advances to companies, firms, LLPs or any other parties.
8. Reporting of compliances with the RBI directives and the provisions of Companies Act in regard to deemed deposits.
9. Reporting with respect to transactions not recorded in the books of accounts surrendered or disclosed as income in the Income Tax proceedings.
10. Comprehensive reporting requirement for default in the repayment of loans/other borrowings or in the payment of interest.
11. Reporting on treatment by auditor of whistle blower complaints received during the year by the company.
12. Whether the company has revalued its PPE (including Right to use assets) or intangible assets or both during the year.
13. Auditor also needs to specifically comment on coverage and procedure adopted for inventory management.
14. Materiality has been taken as 10% or more in each class of inventory.

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# CONTACT

**For Articles in Newsletter or any other communication, please Contact:**

- **CA B. Subramanyam** - **98931-63000**
- **CA Praveen Jain** - **94077-00003**

*Thank  
you!*

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