



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



CA. Kumar S Jigajinni
President, KSCAA

CA. Pramod Srihari
Secretary, KSCAA

Date: 5th March, 2021

To,

Smt. Nirmala Sitharaman
Hon'ble Chairperson, GST Council
15, Safdarjung Road
New Delhi – 110001

Hon'ble Madam,

**SUBJECT: REPRESENTATION SEEKING REINSTATEMENT OF AUDIT PROVISIONS UNDER
GST LAWS**

The Karnataka State Chartered Accountants Association (R) (in short 'KSCAA') is an Association of Chartered Accountants, registered under the Karnataka Societies Registration Act, in the year 1957. KSCAA is primarily formed for the welfare of Chartered Accountants and represents before various regulatory authorities to resolve the problems / hardships faced by Chartered Accountants and business community.

At the outset, we congratulate and applaud sincere efforts of Union Government and your good selves for undertaking and laying down a progressive, optimistic and growth-oriented Union Budget 2021-22 which has all enablers to transform India to a truly Atmanirbhar Bharat, amidst unprecedented situation with global and domestic economic slowdown caused by Covid-19 pandemic.

In the past, we have written to your good selves many a times populating various issues, challenges and hardships being faced by taxpayers and Chartered Accountants and suggested possible solutions on the same. Here in, we are presenting before your good selves for your kind consideration, one important amendment brought in by the Finance Act, 2021 which can be



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detrimental to the interest of the tax payers under GST law as well as the interest of the revenue.

One of the changes proposed in the budget vide Section 101 & 102 of the Finance Act, 2021 is deletion of sub-section (5) of Section 35 of the CGST Act, 2017 and substitution of Section 44 of the CGST Act, 2017. Before this amendment was proposed, it was mandatory for every registered person whose Aggregate turnover exceeded Rs. 2 Crores in a financial year to get his accounts audited as specified under Section 35(5) of the CGST Act, 2017 and furnish a Reconciliation Statement (GSTR-9C) duly certified by a Practicing Chartered Accountant or Cost Accountant. However as per proposed amendment as mentioned above, going forward this Reconciliation statement is expected to be self-certified by the registered person, thereby obliterating the requirement of certification on the veracity of the same by practicing Chartered Accountants or Cost Accountants.

As per the Extract of the minutes of the meeting of GST Council that proposed this amendment, the basis of the decision seems to be on the wrong understanding that a substantial part of the GST liability discharged by the registered tax payers vide DRC-03 at the time of filing annual returns is paid by them *suo motu*, and that additional tax revenue based on auditor's recommendations has been very less. What the GST Council did not take note of, or appreciate, is the fact that the tax so paid vide DRC-03 by the tax payers and shown along with GSTR-9 is a natural concomitant of the reconciliation and related value-add professional work being performed by the the professionals in respect of GST audit. In most cases, the tax professionals would have advised the taxpayers to accept additional liabilities and pay through GSTR-9 instead of GSTR-9C so that the GST Officer can at best invoke Section 73 of the CGST Act, 2017 (regarding interest) and not Section 74 (regarding 100% Penalty). Invoking Section 74 against the dealer is completely negated because of the voluntary compliance by the dealer. Therefore we are of the considered view that, unless the GST Audit and other related works are actually performed by professionals, it is very unlikely that any non-compliances or mistakes would get identified at an early stage and registered persons are accordingly advised for payment of applicable taxes.



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Further, considering the current administrative depth of the Department, it is highly unlikely that the Department would be capable of performing the audit of all the taxpayers. Therefore, tax professionals will act as an extended arm of the Department to fill this gap. Continuing the GST audit will be a win-win situation for all the stakeholders in the GST ecosystem, namely, Revenue, taxpayers and the tax professionals. Also, with this proposed amendment, the fundamental principle of “maker-checker” would completely vanish, and hence what was supposedly done for bringing in ease of doing business for registered persons, it could actually backfire and make things worse for the taxpayers across the country leading to spurt in the tax evasions and non-compliance of law.

Further, this amendment has the potential of harvesting more litigation in the future and so also it would make the task harder for the revenue even to collect what is lawfully due from the registered persons. Further in the case of honest and law abiding registered persons owing to wrong interpretation of the law with a self-certification might result in a huge outflow of funds in the form of interest and penalty to the taxpayer. The Chartered Accountants help in early detection of any deviation and render professional value-added service to SMEs and other large sectors. The audit professionals therefore act as a bridge between the Government and the Industry and the movement of information / taxes will be difficult once this bridge is removed.

Further, as per the minutes of the aforesaid meeting, it was alleged that tax professionals are charging exorbitant fee for filing of annual return and reconciliation, and also that they insist on being appointed for the entire compliance management process throughout the year. This claim is totally baseless and through this letter, we rebut this claim. In today’s competitive world, the reality is that the tax payers appoint their tax professionals only after obtaining multiple quotations / proposals and they enjoy complete liberty to appoint / change the tax professionals as they like. Also, the professional fees charged is based on the volume of work involved and estimated required efforts. We, as tax professionals feel that we are the last ones to be appreciated when something goes right (or tax collections are higher) but are the first ones to be blamed when there is an issue with the collections.

We are optimistic that your good selves would take cognizance of our above submissions in true spirit and would definitely make an ‘all out’ effort to ensure that the proposed omission of



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section 35(5) be dropped and thereby remain committed on the principle of bringing ease of doing business for tax payers in its true spirit as envisaged by Shri. Narendra Modi, Hon'ble Prime Minister of India.

Yours Sincerely,

For Karnataka State Chartered Accountants Association ®

CA. Kumar S Jigajinni

President

CA. Pramod Srihari

Secretary

CA. Ganesh V Shandage

Chairman

Representation Committee

Cc to:

1. Shri. Shri Anurag Thakur, Hon'ble Minister of State, Finance.
2. Shri Ajay Bhushan Pandey, Hon'ble Revenue Secretary and Special Secretary, GST Council, New Delhi