BHUJ BRANCH OF WIRC OF ICAI

E-NEWSLETTER FOR THE MONTH OF JULY-2021

(FOR PRIVATE CIRCULATION ONLY)

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IN THIS EDITION

CHAIRMAN'S COMMUNICATION

Respected Members,

India is speedily coming out from COVID – 19 pandemic situation. To avoid worse impact of 3rd wave of Pandemic, we all shall aim to get fully vaccinated as early as possible. Hence it is my humble request to all members to get themselves as well as Family Members Vaccinated as per given time schedule. We hope that very soon we will be in a position to organize physical events with large gathering of our Members again.

During the Month of June-2021, We have jointly organized Virtual CPE Seminars with Gandhidham and Anand Branch on "Basics of RERA (by CA Lalit Raithatha from Baroda)", "Recent Changes in TDS Provisions and practical issues (by CA Rahul Parikh from Baroda), "CA Practice Management Strategy (by RCM Umesh Sharma from Mumbai) and "Penal discussion on future of CA (by Past Chairperson of WIRC and our branch nominee CA Priti Savla along with panelists CA Mitesh Dharamshi, CA Jigar Saiya, CA

Jignesh Keniya and CA Jay Savla). Thanks to all expert faculties and panelists for sharing their views and expertise with members.

We have also organize Covid-19 vaccination camp at branch premises with the help of Taluka Health Office, Bhuj. More than 50 Members, Students and Family Members have taken benefit of the same. Thanks to Staff of Taluka Health Office Bhuj and Past Chairman of Bhuj Branch CA Bunty Popat for arranging vaccination camp at our Branch Premises. On the occasion of International Yoga week, we have organized Virtual Yoga Shibir in association with Patanjali Yog Samiti Kutch with the help of Yoga Teacher & Evaluator Vijaykumar Sheth on 20th June 2021.

We have celebrated 73rd CA day on 1st July 2021 with Flag Hoisting, Tree Plantations and Swachhta Abhiyan at Branch Premises. On the Occasion of CA Day we have organised Virtual Musical Housie in evening time. Thanks to all coordinators , Singers, Winners and Participants in Housie Game.

We have also lined up various knowledge Webinars in the Month of July and a lot of initiatives are being planned for the benefit of the Members and Students. We will also organize joint programs and seminars with other professional bodies as well as various government departments for betterment of our and their members for a worthy knowledge exchange.

A lot of initiatives have been taken by ICAI for members as well as students. I would urge you all to check the ICAI website regularly, and stay connected with the official social media handles to get aware about the tons of benefits extended by our Institute for both members and students.

Once again It is my humble request to members to contribute article for our monthly newsletter. I also request all members to come forward as a faculty with relevant topics to enable us to organize CPE Seminars continuously with in-house faculties. If any member wants to contribute in respect of any article in future or want to become moderator of any future programme of branch then contact with any of executive committee members.

Best Regards,
CA Ramesh Pindolia
Chairman, Bhuj Branch of WIRC of ICAI

CIRCULAR NO 13 OF 2021

Guidelines under section 194Qof the Income Tax Act, 1961

Finance Act, 2021 inserted a new section 194Q in the Income-tax Act 1961 (hereinafter referred to as "the Act") which takes effect from 1st day of July, 2021. It applies to any buyer who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of value exceeding fifty lakh rupees in any previous year. The buyer, at the time of credit of such sum to the account of the seller or at the time of payment, whichever is earlier, is required to deduct an amount equal to 0.1% of such sum exceeding fifty lakh rupees as income tax.

2. Buyer is defined to be person whose total sales or gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of good is carried out. Central Government has been authorised to specify by notification in the Official Gazette, person who would not be considered as buyer for the purposes of this section.

3. Sub-section (3) of section 194Q of the Act empowers the Board (with the approval of the Central Government) to issue guidelines for the purpose of removing difficulties. Various representations have been received by the Board for issuing guidelines for removing certain difficulties. In exercise of power contained under sub-section (3) of section 194Q of the Act, the Board, with the approval of the Central Government, hereby issues the following guidelines. These guidelines at some places have also tried to remove difficulties in implementing the provisions of section 194-O and sub-section (1H) of section 206C of the Act using power contained in sub-section (4) of section 194-O of the Act and sub-section (1-I) of section 206C of the Act.

4.Guidelines

4.1 Applicability on transactions carried through various Exchanges:

4.4.1 It has been represented that there are practical difficulties in implementing the provisions of Tax Deduction at Source (TDS) contained in section 194-Q of the Act in

case of certain exchanges and clearing corporations. It has been stated that sometime in these transactions there is no one to one contract between the buyers and the sellers.

4.1.2 In order to remove such difficulties, it is provided that the provisions of section 194Q of the Act shall not be applicable in relation to,

i. transactions in securities and commodities which are traded through recognized stock exchanges or cleared and settled by the recognized clearing corporation, including recognized stock exchanges or recognized clearing corporation located in International Financial Service Centre;

ii. transactions in electricity, renewable energy certificates and energy saving certificates traded through power exchanges registered in accordance with Regulation 21 of the CERC; and

For this purpose,-

(i) "recognized clearing corporation" shall have the meaning assigned to it in clause(i)of the Explanation to clause (23EE) of section 10 of the Act;

(ii) "recognized stock exchange" shall have the meaning assigned to it in clause (ii) of the Explanation I to sub-section (5) of section 43 of the Act; and

(iii) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005.

4.2 Calculation of threshold for the financial year 2021-22.

4.2.1. Since section 194Q of the Act would come into effect from 1" July, 2021, it was requested to clarify how the threshold of fifty lakh rupees specified under this section shall be computed and whether the tax is required to be deducted in respect of advance paid before 1st July 2021 and sum credited thereafter.

4.2.2 It hereby clarified that,-

(i) Since section 194Q of the Act mandates buyer to deduct tax on credit of sum in the account of seller or on payment of such sum, whichever earlier, the provision of this sub-section shall not apply on any sum credited or paid before 1st July 2021. If either of the two events had happened before 1st July 2021,

that transaction would not be subjected to the provisions of section 194Q of the Act.

(ii) Since the threshold of fifty lakh rupees is with respect to the previous year, calculation of sum for triggering TDS under section 194Q shall be computed from 1st April, 2021. Hence, if a person being buyer has already credited or paid fifty lakh rupees or more up to 30th June 2021 to a seller, the TDS under section 194Q shall apply on all credit or payment during the previous year, on or after 1st July 2021, to such seller.

4.3 Adjustment for GST, purchase returns

4.3.1 It is requested to clarify that whether adjustment is required to be made for GST or purchase returns for the purpose of tax deduction under section 194Q of the Act. Vide circular no 17 of 2020 dated 29th Sept 2020 it was clarified that no adjustment on account of GST is required to be made for collection of tax under sub-section (IH) of section 206C of the Act since the collection is made with reference to receipt of amount of sale consideration. However, the situation is different so far as TDS is concerned. It has been clarified in circular no 23 of 2017 dated 19th July 2017 as under

"wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid or payable without including such 'GST on services' component. GST for these purposes shall include integrated goods and Services Tax, central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Service Tax."

4.3.2 Accordingly with respect to TDS under section 194Q of the Act, it is clarified that when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, tax shall be deducted under section 194Q of the Act on the amount credited without including such GST. However, if the tax is deducted on payment basis because the payment is earlier than the credit, the tax would be deducted on

the whole amount as it is not possible to identify that payment with GST component of the amount to be invoiced in future.

4.3.3 Further, with respect to purchase return it is clarified that the tax is required to be deducted at the time of payment or credit, whichever is earlier. Thus, before purchase return happens. The tax must have already been deducted under section 194Q of the Act on that purchase. If that is the case and against this purchase return the money is refunded by the seller. Then this tax deducted may be adjusted against the next purchase against the same seller. No adjustment is required it the purchase return is replaced by the goods by the seller as in that case the purchase on which tax was deducted under section 194Q of the Act has been completed with goods replaced.

4.4 Whether non-resident can be buyer under section 194Q of the Act?

4.4.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer being a non-resident. To remove difficulties, it is clarified that the provisions of section 194Q of the Act shall not apply to a non-resident whose purchase of goods from seller resident in India is not effectively connected with the permanent establishment of such non- resident in India. For this purpose, "permanent establishment" shall mean to include a fixed place of business through which the business of the enterprise is wholly or partly carries on.

4.5 Whether tax is to be deducted when the seller is a person whose income is exempt

4.5.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a seller whose income is exempt. To remove difficulty, it is clarified that the provisions of section 194Q of the Act shall not apply on purchase of goods from a person, being a seller, who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

4.5.2 Similarly, with respect to sub-section (1H) of section 206C of the Act, it is clarified that the provisions of this sub-section shall not apply to sale of goods to a person, being a buyer. Who as a person is exempt from income tax under the Act

(like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

4.5.3 The above clarifications would not apply if only part of the income of the person (being a seller or being a buyer as the case may be) is exempt.

4.6 Whether tax is to be deducted on advance payment?

4.6.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to advance payment made by the buyer. It is clarified that since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q of the Act shall apply to advance payment made by the buyer to the seller.

4.7 Whether provisions of section 194Q of the Act shall apply to buyer in the year of incorporation

4.7.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer in the year of its incorporation. It is clarified that under section 194Q of the Act a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ten crore rupees during the financial year immediately preceding the financial year in which the purchase of good is carried out. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q of the Act shall not apply in the year of incorporation.

4.8 Whether provisions of section 194Q of the Act shall apply to buyer if the turnover from business is 10 crore or less?

4.8.1 It is requested to clarify if the provisions of section 194Q of the Act shall apply to a buyer who has turnover or gross receipt exceeding Rs 10 crore but total sales or gross receipts or turnover from business is Rs 10 crore or less. It is clarified that for the purposes of section 194Q of the Act, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ten crore rupees during the financial year immediately preceding the financial year in which the purchase of good is carried out. Hence, the sales or gross receipts or turnover from business carried on by him must exceed Rs 10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.

4.9 Cross application of section 194-O, sub-section (1H) of section 206C and section 194Q of the Act.

4.9.1 It is requested to clarify how section 194-O, sub-section (1H) of section 206C and section 194Q of the Act, apply on the same transaction.

4.9.2 Under sub-section (3) of section 194-O of the Act, a transaction in respect of which tax has been deducted by the e-commerce operator under sub-section (1), or which is not liable to deduction under sub-section (2), shall not be liable to tax deduction at source under any other provision of chapter XVII of the Act.

4.9.3 Under second proviso to sub-section (1H) of section 206C of the Act, provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provisions of this Act on the goods purchased by him from the seller and has deducted such tax.

4.9.4 Under sub-section (5) of section 194Q of the Act, the provision of this section shall not apply to a transaction on which-

(i) tax is deductible under any of the provisions of this Act; and
(ii) tax is collectible under the provisions of section 206C, other than a transactions on which sub-section (1H) of section 206C applies

4.9.5 After conjoint reading of all these provisions the following is clarified:

(i) If tax has been deducted by the e-commerce operator on a transaction under section 194-O of the Act [including transactions on which tax is not deducted on account of sub-section (2) of section 194-O], that transaction shall not be subjected to tax deduction under section 194Q of the Act.
(ii) Though sub-section (1H) of section 206C of the Act provides exemption from TCS if the buyer has deducted tax at source on goods purchased by him, to remove difficulties it is clarified that this exemption would also cover a situation where instead of the buyer the e-commerce operator has deducted tax at source on that transaction of sale of goods by seller to buyer through e-commerce operator.

(iii) If a transaction is both within the purview of section 194-O of the Act as well as section 194Q of the Act, tax is required to be deducted under section 194-O of the Act and not under section 194Q of the Act.

(iv) Similarly, if a transaction is both within the purview of section 194-O of the Act as well as sub-section (1H) of section 206C of the Act, tax is required to be deducted under section 194-O of the Act. The transaction shall come out of the purview of sub- section (1H) of section 206C of the Act after tax has been deducted by the e-commerce operator on that transaction. Once the e-commerce operator has deducted the tax on a transaction, the seller is not required to collect the tax under sub-section (1H) of section 206C of the Act on the same transaction. It is clarified that here primary responsibility is on e-commerce operator to deduct the tax under section 194-O of the Act and that responsibility cannot be condoned if the seller has collected the tax under sub-section (1H) of section 206C of the Act. This is for the reason that the rate of TDS under section 194-O is higher than rate of TCS under sub-section (1H) of section 206C of the Act.

(v) If a transaction is both within the purview of section 194-Q of the Act as well as sub-section (1H) of section 206C of the Act, the tax is required to be deducted under section 194-Q of the Act. The transaction shall come out of the purview of sub-section (l1H) of section 206C of the Act after tax has been deducted by the buyer on that transaction. Once the buyer has deducted the tax on a transaction, the seller is not required to collect the tax under sub-section (1H) of section 206C of the Act on the same transaction. However, if, for any reason, tax has been collected by the seller under sub-section (1H) of section 206C of the Act, before the buyer could deduct tax under section 194-Q of the Act on the same transaction, such transaction would not be subjected to tax deduction again by the buyer. This concession is provided to remove difficulty, since tax rate of deduction and collection are same in section 194Q and sub- section (1H) of section 206C of the Act.

CIRCULAR NO 14 OF 2021

Guidelines under section 9B and sub-section (4) of section 45 of the Income Tax Act, 1961

Finance Act, 2021 inserted a new section 9B in the Income-tax Act 1961 (hereinafter referred to as "the Act"). This section mandates that whenever a specified person receives any capital asset or stock in trade or both from a specified entity, during the previous year, in connection with the dissolution or reconstitution of such specified entity, then it shall be deemed that the specified entity have transferred such capital asset or stock in trade or both, as the case may be, to the specified person (hereinafter referred to as "deemed transfer"). This deemed transfer would be in the year in which such capital asset or stock in trade or both are received by the specified person. Any profits and gains arising from such deemed transfer is deemed to be the income of such specified entity of the previous year in which such capital asset or stock in trade or both, are received by the specified person. Further, it is chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains", in accordance with the provisions of this Act. It has also been provided that the fair market value of the capital asset or stock in trade or both, on the date of its receipt by the specified person, shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer. The definitions of terms "reconstitution of the specified entity", "specified entity" and "specified person" are provided in sect ion 9B of the Act.

2. Similarly the Finance Act 2021 substituted sub-section (4) of section 45 of the Act. This newly substituted sub-section (4) now provides that where a specified person receives any money or capital asset or both from a specified entity, during the previous year, in connection with the reconstitution of such specified entity, then any profits or gains arising from receipt of such receipt by the specified person shall be chargeable to income-tax as income of the specified entity under the head "Capital gains". It has been further deemed that this income shall be the income of the specified entity of the previous year in which such money or capital asset or both were received by the specified person. A formula to calculate such profits and

gains has also been provided in this sub-section. The definitions of terms "reconstitution of the specified entity", "specified entity" and "specified person" shall be as provided in section 9B of the Act while the terms "self- generated goodwill" and "self-generated asset" have been defined in this sub-section. It has been further clarified that when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, the provisions of sub-section (4) of section 45 of the Act shall operate in addition to the provisions of section 9B of the Act and the taxation under the said provisions thereof shall be worked out independently. Both, the new section 9B and substituted sub-section (4) of section 45 are applicable for the assessment year 2021-22 and subsequent assessment years.

3. Sub-section (4) of section 9B of the Act provides that if any difficulty arises in giving effect to the provisions of this section and sub- section (4) of section 45 of the Act, the Board may , with the approval of the Central Government, issue guidelines for the purposes of removing the difficulty. For this purpose, the Central Board of Direct Taxes, with the approval of the Central Government, hereby issues the following guidelines.

Guidelines

4. It is noticed that the amount taxed under sub-section (4) of section 45 of the Act is required to be attributed to the remaining capital assets of the specified entity, so that when such capital assets get transferred in the future, the amount attributed to such capital assets gets reduced from the full value of the consideration and to that extent the specified entity does not pay tax again on the same amount. It is further noticed that this attribution is given in the Act only for the purposes of section 48 of the Act. It may be seen that section 48 of the Act only applies to capital assets which are not forming block of assets. For capital assets forming block of assets there is sub-clause (c) of clause (6) of section 43 of the Act to determine written down value of the block of asset and section 50 of the Act to determine the capital gains arising on transfer of such assets. However, the Act has not yet provided that amount taxed under sub-section (4) of section 45 of the Act can also be attributed to capital assets forming part of block of assets and which are covered by these two provisions. To

remove difficulty, it is clarified that rule 8AB of the Income Tax Rules, 1962 (hereinafter referred to as "the Rules") notified vide notification no. 76 dated 02.07.2021 also applies to capital assets forming part of block of assets. Wherever the terms capital asset is appearing in the rule 8AB of the Rules, it refers to capital asset whose capital gains is computed under section 48 of the Act as well as capital asset forming part of block of assets. Further, wherever reference is made for the purposes of section 48 of the Act, such reference may be deemed to include reference for the purposes of sub- clause (c) of clause (6) of section 43 of the Act and section 50 of the Act.

5. For the removal of doubt it is further clarified that in case the capital asset remaining with the specified entity is forming part of a block of asset , the amount attributed to such capital asset under rule 8AB of the Rules shall be reduced from the full value of the consideration received or accruing as a result of subsequent transfer of such asset by the specified entity, and the net value of such consideration shall be considered for reduction from the written down value of such block under sub- clause (c) of clause (6) of section 43 of the Act or for calculation of capital gains, as the case may be, under section 50 of the Act.

6. For the purposes of understanding and for removing difficulties, if any, the application of section 9B of the Act and sub-section (4) of section 45 of the Act is explained with the help of the following examples:

Example 1: There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹10 lakh in the firm. There are three pieces of lands "S", "T" and "U" in that firm and there is no other capital asset in that firm. Book value of each of the land is ₹10 lakh. All these three lands were acquired by the firm more than two years ago.

Partner "A" wishes to exit. The firm revalues its lands based on valuation report from a registered valuer, as defined in rule 11U of the Rules, and as per that valuation report fair market value of lands "S" and "T" is Rs 70 lakh each, while fair market value of land "U" is ₹50 lakh. On the exit of partner "A", the firm decides to give him ₹11 lakh of money and land "U" to settle his capital balance.

In accordance with the provisions of section 9B of the Act, it would be deemed that the firm "FR" has transferred land "U" to the partner "A" at its fair market value of ₹50 lakh. Let us assume that the indexed cost of acquisition of land "U" is ₹15 lakh.

Now on account of the deeming provisions of section 9B of the Act, it is deemed that the firm "FR" has transferred land "U" to partner "A". Thus, an amount of ₹50 lakh less ₹15 lakh would be charged to tax in the hands of firm "FR" under the head "Capital gains". For partner "A", the cost of acquisition of this land would be ₹50 lakh. Hence, the amount of ₹35 lakh is charged to long term capital gains and let us assume that the tax is ₹7 lakh (assume no surcharge or cess just for ease of calculation and illustration purposes).

This , net book profit after tax of ₹33 lakh (capital gains of ₹40 lakh without indexation less tax of ₹7 lakh) is to be credited in the capital account of each of the three partners, i.e. ₹11 lakh each. Thus partner "A" capital account would increase to ₹21 lakh. This exercise is required to be carried out since section 9B of the Act mandates that it is to be deemed that the firm "FR" has transferred the land "U" to partner "A" and the long term capital gains of ₹35 lakh is chargeable to tax in the hands of the firm "FR".

As against capital balance of ₹21 lakh, partner "A" has received ₹61 lakh (₹ 11 lakh of money plus land "U" of fair market value of ₹50 lakh). Thus ₹40 lakh is required to be charged to tax under sub- section (4) of section 45 of the Act. This shall be in addition to an amount of ₹35 lakh charged to tax under section 9B of the Act.

On account of clause (iii) of section 48 of the Act, read with rule 8AB of the Rules , this ₹40 lakh is to be attributed to the remaining assets of the firm "FR" on the basis of increase in their value due to revaluation based on the valuation report of registered valuer. In this case as per revaluation there are only two capital assets remaining; lands "S" and "T".In both cases the value has increased by ₹60 lakh each. Thus, out of ₹40 lakh, ₹20 lakh shall be attributed to land "S" and ₹20 lakh to land "T". When either of these lands gets sold, this amount attributed to them

would be reduced from sales consideration under clause (iii) of section 48 of the Act.

The amount of ₹40 lakh which is charged to tax under sub-section (4) of section 45 of the Act shall be charged as long term capital gains in view of sub-rule (5) of rule 8AA of the Rules , since the amount of ₹40 lakh is attributed to land "S" and land "T" which are both long term capital assets at the time of taxation of ₹40 lakh under sub-section (4) of section 45 of the Act.

Example 2: There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹10 lakh in the firm. There are three pieces of lands "S", "T" and "U" in that firm and there is no other capital asset in that firm. All these three lands were acquired by the firm more than two years ago.

Book value of each of the land is ₹10 lakh. Partner "A" wishes to exit. The firm sells land "U" for its fair market value of ₹50 lakh. Let us assume that the indexed cost of acquisition of land "U" is ₹15 lakh. Thus, an amount of ₹50 lakh less ₹15 lakh would be charged to tax in the hands of firm "FR" under the head "Capital gains" . Hence , the amount of ₹35 lakh is charged to long term capital gains and let us assume that the tax is ₹7 lakh (assume no surcharge or cess just for ease of calculation and illustration purposes).

This , net book profit after tax of ₹33 lakh (capital gains of ₹40 lakh without indexation less tax of ₹7 lakh) is to be credited in the capital account of each of the three partners, i.e. ₹11 lakh each. Thus, partner "A" capital account would increase to ₹21 lakh.

Partner "A" decides to exit the firm "FR" . The firm revalue its lands "S" and "T" based on valuation report from a registered valuer, as defined in rule 11U of the Rules, and as per that valuation report fair market value of lands "S" and "T" is ₹70 lakh each On the exit of partner " A", the firm decides to give him ₹ 61 lakh of money to settle his capital balance. Thus, as against capital balance of ₹21 lakh , partner "A" has received ₹61 lakh of money . Thus ₹40 lakh is required to be charged to tax under

sub- section (4) of section 45 of the Act. This will be in addition to ₹35 lakh already charged to capital gains.

On account of clause (iii) of section 48 of the Act, read with rule 8AB of the Rules, this ₹40 lakh is to be attributed to the remaining assets of the firm "FR" on the basis of increase in their value due to revaluation based on the valuation report of registered valuer. In this case as per revaluation there are only two capital assets remaining; lands "S" and "T". In both cases the value has increased by ₹60 lakh each. Thus, out of ₹40 lakh, ₹20 lakh shall be attributed to land "S" and ₹20 Lakh to land "T". When either of these lands gets sold, this amount attributed to them would be reduced from sales consideration under clause (iii) of section 48 of the Act.

The amount of ₹40 lakh which is charged to tax under sub-section (4) of section 45 of the Act shall be charged as long term capital gains in view of sub-rule (5) of rule 8AA of the Rules, since the amount of 40 lakh is attributed to land "S" and land "T" which are both long term capital assets at the time of taxation of ₹40 lakh under sub-section (4) of section 45 of the Act.

Note: The final result in both example 1 and 2 is same due to the operation of section 9B of the Act.

Example 3:

There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹100 lakh in the firm. There is a piece of land "S" of book value of ₹30 lakh. There is patent "T" of written down value of ₹45 lakh. And there is cash of ₹225 lakh . The land was acquired by the firm more than two years ago. The patent was acquired/developed/registered one year back.

Partner "A" wishes to exit. The firm revalue its land and patent based on valuation report from a registered valuer, as defined in rule 11U of the Rules , and as per that valuation report fair market value of land "S" is ₹45 lakh and fair market value of patent "T" is ₹60 lakh. As per the valuation report there is also self- generated goodwill of ₹30 lakh. On the exit of partner "A", the firm decides to give him ₹75 lakh in money and land "S" to settle his capital balance.

In accordance with the provisions of section 9B of the Act, it would be deemed that the firm "FR" has transferred land "S" to the partner "A" at its fair market value of ₹45 lakh. Let us assume that the indexed cost of acquisition of land "S" is ₹45 lakh.

Now on account of the deeming provisions of section 9B of the Act, it is deemed that the firm "FR" has transferred land "S" to partner "A". However, since the sale consideration is equal to indexed cost of acquisition, there will not be any capital gains tax. For partner "A", the cost of acquisition of this land would be ₹45 lakh.

The net book profit of ₹15 lakh (capital gains of ₹15 lakh without indexation) is to be credited in the capital account of each of the three partners, i.e. ₹5 lakh each. Thus partner "A" capital account would increase to ₹105 lakh. This exercise is required to be carried out since section 9B of the Act mandates that it is to be deemed that the firm "FR" has transferred the land "S" to partner "A". Thus, any gain in the books is to be apportioned to partners' capital accounts.

As against capital balance of ₹105 lakh, partner "A" has received ₹120 lakh (money of ₹75 Lakh plus land "S" of fair market value of ₹45 lakh). Thus ₹15 Lakh is required to be charged to tax under sub-section (4) of section 45 of the Act.

On account of clause (iii) of section 48 of the Act, read with rule 8AB of the Rules and this guidance note, this ₹15 lakh is to be attributed to the remaining capital assets of the firm "FR" on the basis of increase in the value due to revaluation of existing capital assets, or due to recognition of the value of self-generated goodwill, based on the valuation report of registered valuer. In this case as per this report the value of patent "T" has increased by ₹15 lakh and the self-generated goodwill value has been recognised at ₹30 lakh. Thus one third of ₹15 lakh (i.e. ₹5 lakh) would be attributed to patent "T", while two third of ₹15 lakh (i.e. ₹10 lakh) would be attributed to self-generated goodwill. ₹5 lakh attributed to patent "T" shall not be added to the block of the assets and no depreciation shall be available on the same. When patent "T" gets transferred subsequently, this ₹5 Lakh attributed shall be reduced from the full value of the consideration received or accruing as a

result of transfer of patent "T" by the firm "FR", and the net value shall be considered for reduction from the written down value of the intangible block under sub-clause (c) of clause (6) of section 43 of the Act or for calculation of capital gains, as the case may be, under section 50 of the Act.(Refer guidance in paragraph 5 of this circular). Let us say that Patent T is sold for ₹25 lakh. ₹5 lakh shall be reduced from ₹25 lakh and only net amount of ₹20 lakh shall be considered for reduction from the written down value of the intangible block under sub-clause (c) of clause (6) of section 43 of the Act or for calculation of capital gains, as the case may be, under section 50 of the Act. Similarly when goodwill gets sold subsequently, ₹10 lakh would be reduced from its sales consideration under clause (iii) of section 48.

The amount of ₹15 lakh which is charged to tax under sub-section (4) of section 45 of the Act shall be charged as short term capital gains , as ₹5 lakh is attributed to the Patent "T" which is part of block of assets and ₹10 lakh is attributed to self-generated goodwill. In accordance with sub-rule (5) of Rule 8AA of the Rules, both of these are to be characterised as short term capital gains.

Note: For the purpose of calculation of depreciation under section 32 of the Act, the written down value of the block of asset "intangible" of which Patent "T" is part, would remain ₹45 lakh and would not be increased to ₹60 lakh due to revaluation during the year. In this regard it may be highlighted that the following provisions are relevant in determining the amount on which depreciation is allowable under the Act:

- Explanation 2 of sub-section (I) of section 32 of the Act provides that the term "written down value of the block of assets" shall have the same meaning as in clause (c) of sub-section (6) of section 43 of the Act.

- Clause (c) of sub-section (6) of section 43 of the Act, with respect to block of assets, inter-alia, provides that the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year is to be increased by the actual cost of any asset falling within that block, acquired during the previous year. This clause does not allow any increase on account of revaluation.

- Sub-section (1) of section 43 of the Act which defines "Actual cost" as actual cost of the assets to the assessee. In revaluation, there is no actual cost to the assessee.

Further, section 32 of the Act does not allow depreciation on goodwill. If in the given example "self- generated goodwill" is replaced by "self- generated asset ", even then the depreciation will not be admissible on the amount of ₹30 lakh recognised in valuation. In this regard it may be highlighted that the above mentioned provisions, in the immediate preceding paragraph, are also applicable to "self-generated asset" and since there is no actual cost to assessee in case of "self- generated asset", depreciation is not allowable under section 32 of the Act on an asset whose actual cost is nil.

Contributed By:- CA DEEP KORADIA
B.Com., FCA, DISA(ICAI)

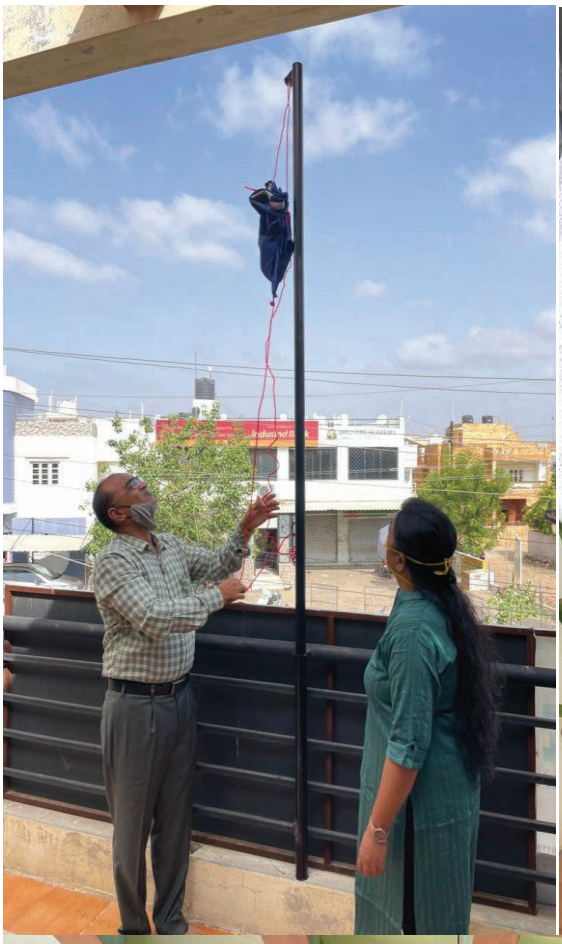
Sr No	Notification No	Category	Date	Description	Keyword / Reference / Comment	Link
1	16/2021	Central Tax	01-06-2021	Seeks to appoint 01.06.2021 as the day from which the provisions of section 112 of Finance Act, 2021, relating to amendment of section 50 of the CGST Act, 2017 shall come into force.	Interest on Net basis notified from 01-06-2021	Click Here
2	17/2021	Central Tax	01-06-2021	Seeks to extend the due date for FORM GSTR-1 for May, 2021 by 15 days.	GSTR1 for May-21 extended to 26th June 2021	Click Here
3	18/2021	Central Tax	01-06-2021	Seeks to provide relief by lowering of interest rate for a specified time for tax periods March, 2021to May, 2021.	Interest reduction for March, Apr and May21 [for below 5cr TO, addition in days for 9% rate for March and April and new relief for May Given]	Click Here
4	19/2021	Central Tax	01-06-2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-3B ; and to provide conditional waiver of late fee for delay in filing FORM GSTR-3B from July, 2017 to April, 2021; and to provide waiver of late fees for late filing of return in FORM GSTR-3B for specified taxpayers and specified tax periods.	Late fee for 3B Capped based on TO as below June21 Onwards: NIL Tax - 250 + 250 Rs TO upto 1.5cr - 1000 + 1000 Rs 1.5 to 5 cr - 2500 +2500 Rs aboce 5cr - 5000+5000 Rs Late fee Amnesty scheme for July17 to Apr21 [If files beween 1-6-21 to 31-8-21] 250+250 for NIL Returns 500+500 other than NIL Returns	Click Here
5	20/2021	Central Tax	01-06-2021	Seeks to rationalize late fee for delay in furnishing of the statement of outward supplies in FORM GSTR-1.	Late fee for **GSTR-1** Capped based on TO as below June21 Onwards: NIL Tax - 250 + 250 Rs TO upto 1.5cr - 1000 + 1000 Rs 1.5 to 5 cr - 2500 +2500 Rs aboce 5cr - 5000+5000 Rs	Click Here

6	21/2021	Central Tax	01-06-2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-4.	Late fee for GSTR-4 Composition dealer Capped based on TO as below 21-22 Onwards: NIL Tax - 250 + 250 Rs others - 1000 + 1000 Rs	Click Here
7	22/2021	Central Tax	01-06-2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-7.	Late fee for GSTR-7 TDS registered person Capped based on TO as below June21 Onwards: Per day - 25 + 25 Rs Max Cap - 1000 + 1000 Rs	Click Here
8	23/2021	Central Tax	01-06-2021	Seeks to amend Notification no. 13/2020-Central Tax to exclude government departments and local authorities from the requirement of issuance of e-invoice	Government Department and Local Authority excluded from Einvoice Requirements	Click Here
9	24/2021	Central Tax	01-06-2021	Seeks to amend notification no. 14/2021-Central Tax in order to extend due date of compliances which fall during the period from "15.04.2021 to 29.06.2021" till 30.06.2021	Covid Relief in other proceedings from 150421 to 300521 extended to 310521 earlier, Now again for the period 150421 to 290621 extended till 300621	Click Here
10	25/2021	Central Tax	01-06-2021	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2020-21 to 31.07.2021	Annual Return for Composition Person GSTR4 is extended to 31072021	Click Here
11	26/2021	Central Tax	01-06-2021	Seeks to extend the due date for furnishing of FORM ITC-04 for QE March, 2021 to 30.06.2021	ITC-04 Job work Intimation Return for Q4 20-21 extended to 30062021	Click Here
12	27/2021	Central Tax	01-06-2021	Seeks to make amendments (Fifth Amendment, 2021) to the CGST Rules, 2017	- Companies can File Returns through EVC Till 31082021 -Rule 36(4) to be followed cummulatively for Apr to June21 - IFF for May can be filled till 28th June21	Click Here
13	28/2021	Central Tax	30-06-2021	Seeks to waive penalty payable for non-compliance of provisions of Notification No. 14/2020 dated 21st March 2020	Penalty waived for non compliance to QR code provisions if complied From 01-10-2021 for default during the period 1-12-20 to 30-09-21	Click Here

14	01/2021	Central Tax Rate	02-06-2021	Seeks to amend notification No. 1/2017-Central Tax (Rate) to prescribe change in CGST rate of goods.	Covid related Rate of Goods reduced	Click Here
15	02/2021	Central Tax Rate	02-06-2021	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 43rd meeting held on 28.05.2021.	Maintenance, repair or overhaul services in respect of ships Rate reduced to 5%	Click Here
16	03/2021	Central Tax Rate	02-06-2021	Seeks to amend notification No. 06/2019- Central Tax (Rate) so as to give effect to the recommendations made by GST Council in its 43rd meeting held on 28.05.2021	TIME OF SUPPLY in case of FSI / Development rights taken by developer amended from "on the day of completion" to "In the tax period of completion"	Click Here
17	04/2021	Central Tax Rate	14-06-2021	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify GST rates of various services as recommended by GST Council in its 44th meeting held on 12.06.2021.	a structure meant for funeral, burial or cremation of deceased to be taxed at 5% for the priod 14-06-21 to 30-09-21	Click Here
18	05/2021	Central Tax Rate	14-06-2021	Seeks to provide the concessional rate of CGST on Covid-19 relief supplies, up to and inclusive of 30th September 2021	Covid related Rate of Goods (Medicines Etc) reduced	Click Here
19	05/2021 - Corrigendum	Central Tax Rate	14-06-2021	Seeks to provide the concessional rate of CGST on Covid-19 relief supplies, up to and inclusive of 30th September 2021	By Mistake printed HSN “3804 94”, Replaced with “3808 94”	Click Here
20	02/2021	Integrated Tax	01-06-2021	Seeks to provide relief by lowering of interest rate for a specified time for tax periods March, 2021 to May, 2021.	Interest reduction for March, Apr and May21 [for below 5cr TO, addition in days for 9% rate for March and April and new relief for May Given]	Click Here
21	03/2021	Integrated Tax	02-06-2021	Seeks to amend Notification No. 4/2019-Integrated Tax dt. 30.09.2019 to change the place of supply for B2B MRO services in case of Shipping industry, to the location of the recipient.	POS In respect of Maintenance, repair or overhaul service in respect of ships and other vessels Shifted to location of Recipient of the Service	Click Here

22	01/2021	Integrated Tax Rate	02-06-2021	Seeks to amend notification No. 1/2017- Integrated Tax (Rate) to prescribe change in CGST rate of goods.	Covid related Rate of Goods reduced	Click Here
23	02/2021	Integrated Tax Rate	02-06-2021	Seeks to amend notification No. 08/2017- Integrated Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 43rd meeting held on 28.05.2021.	Maintenance, repair or overhaul services in respect of ships Rate reduced to 5%	Click Here
24	03/2021	Integrated Tax Rate	02-06-2021	Seeks to amend notification No. 06/2019- Integrated Tax (Rate) so as to give effect to the recommendations made by GST Council in its 43rd meeting held on 28.05.2021.	TIME OF SUPPLY in case of FSI / Development rights taken by developer amended from "on the day of completion" to "In the tax period of completion"	Click Here
25	04/2021	Integrated Tax Rate	14-06-2021	Seeks to amend notification No. 08/2017- Integrated Tax (Rate) so as to notify GST rates of various services as recommended by GST Council in its 44th meeting held on 12.06.2021.	a structure meant for funeral, burial or cremation of deceased to be taxed at 5% for the priod 14-06-21 to 30-09-21	Click Here
26	05/2021	Integrated Tax Rate	14-06-2021	Seeks to provide the concessional rate of IGST on Covid-19 relief supplies, up to and inclusive of 30th September 2021	Covid related Rate of Goods (Medicines Etc) reduced	Click Here
27	05/2021 - Corrigendum	Integrated Tax Rate	14-06-2021	Seeks to provide the concessional rate of IGST on Covid-19 relief supplies, up to and inclusive of 30th September 2021	By Mistake printed HSN “3804 94”, Replaced with “3808 94”	Click Here
28	149/2021	Circular - CGST	17-06-2021	Clarification regarding applicability of GST on supply of food in Anganwadis and Schools	GST on supply of food in Anganwadis and Schools is exempted - clarified	Click Here
29	150/2021		17-06-2021	Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity)	GST on the activity of construction of road where considerations are received in deferred payment (annuity) - NOT Exempted - Clarified	Click Here
30	151/2021		17-06-2021	Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination)	GST on supply of various services by Central and State Board - Entrance examination service Exempted, but accreditation provided	Click Here

					to Institute is taxable	
31	152/2021		17-06-2021	Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis	rate of tax applicable on construction services of ROPE WAY provided to a Government Entity - Full 18% (not eligible for 12%)	Click Here
32	153/2021		17-06-2021	GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS	GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS - 5% (not exempted)	Click Here
33	154/2021		17-06-2021	GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them	service by State Govt. to PSUs by way of guaranteeing loans taken by them - Exempted	Click Here
34	155/2021		17-06-2021	Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System	GST rate on laterals/parts of Sprinklers or Drip Irrigation System - if for Irrigation, then 12%	Click Here
35	156/2021		21-06-2021	Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020 - Reg.	Clarification in respect of applicability of Dynamic (QR) Code on B2C invoices	Click Here




The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)
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BHUJ BRANCH OF WIRC OF ICAI
CA DAY CELEBRATION
1ST JULY 2021
FLAG HOISTING - TREE PLANTATION
SWACHHTA ABHIYAN


BHUJ BRANCH OF
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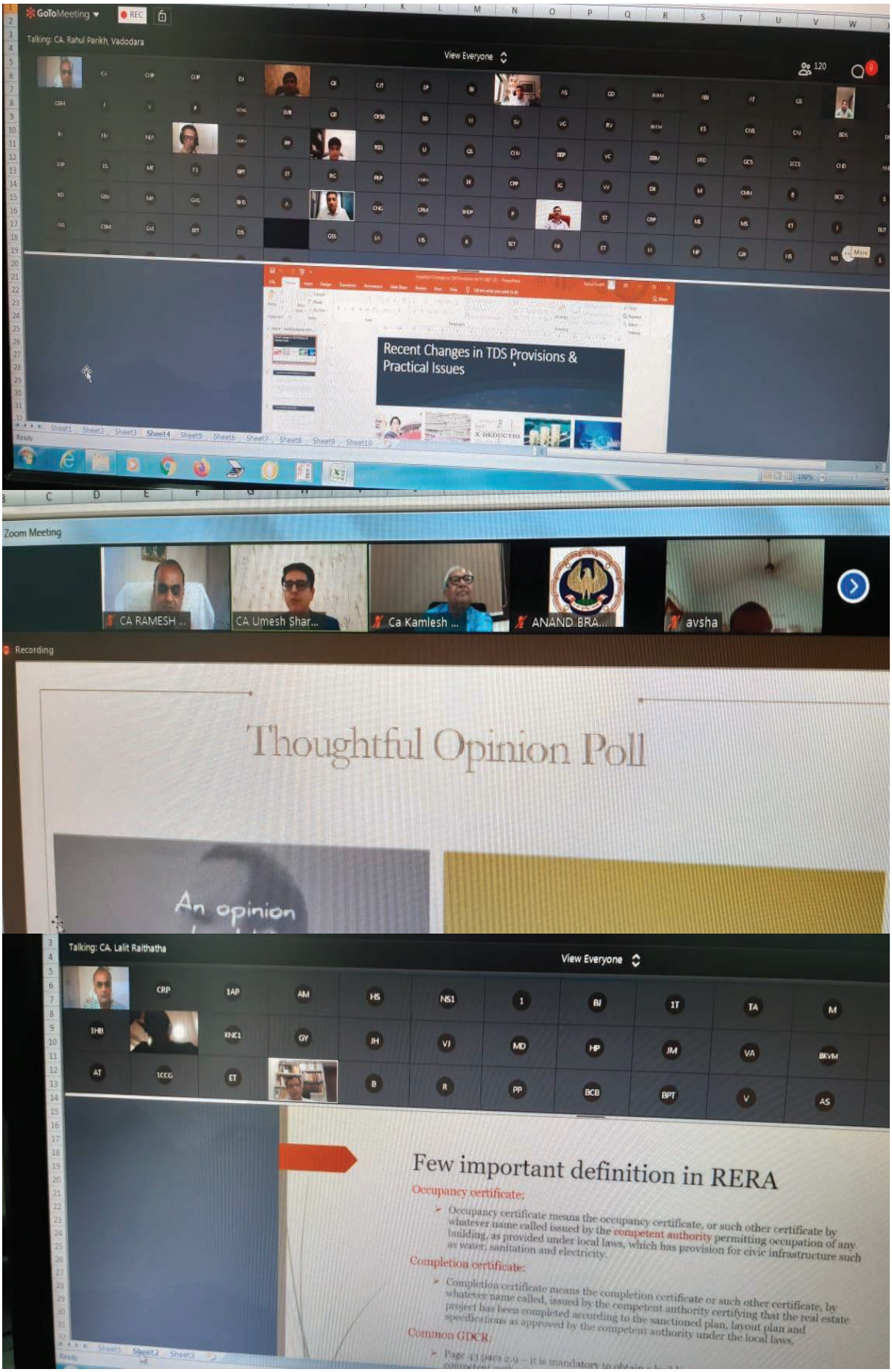
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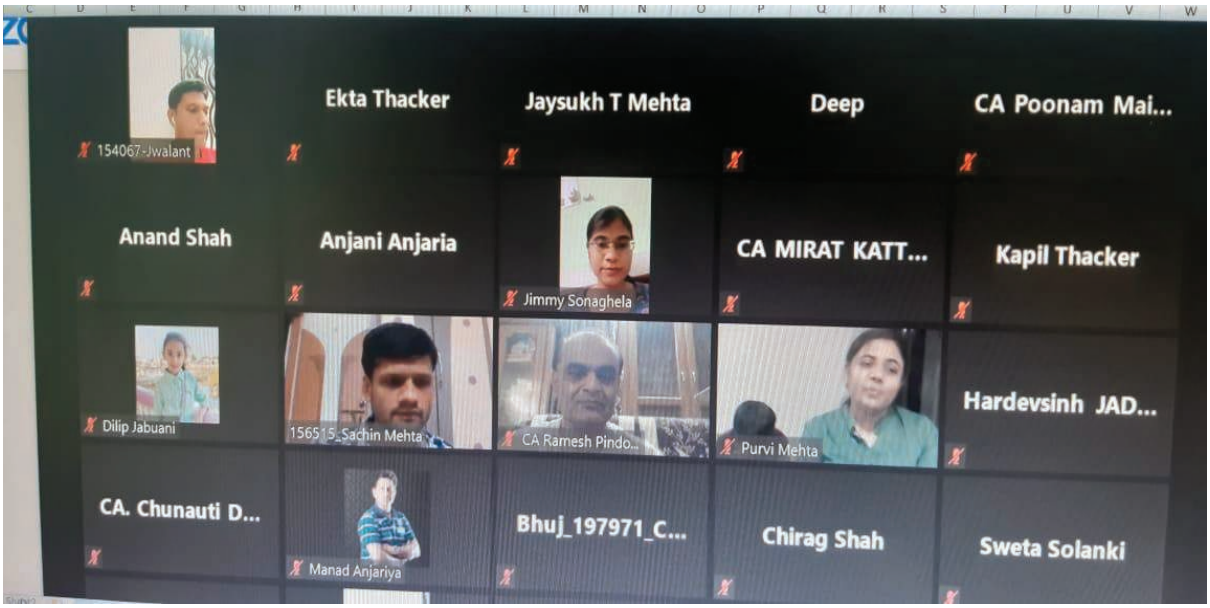
Few important definition in RERA
Occupancy certificate:
Occupancy certificate means the occupancy certificate, or such other certificate by whatever name called issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity.
Completion certificate:
Completion certificate means the completion certificate or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been completed according to the sanctioned plan, layout plan and specifications as approved by the competent authority under the local laws.
Common GDCR: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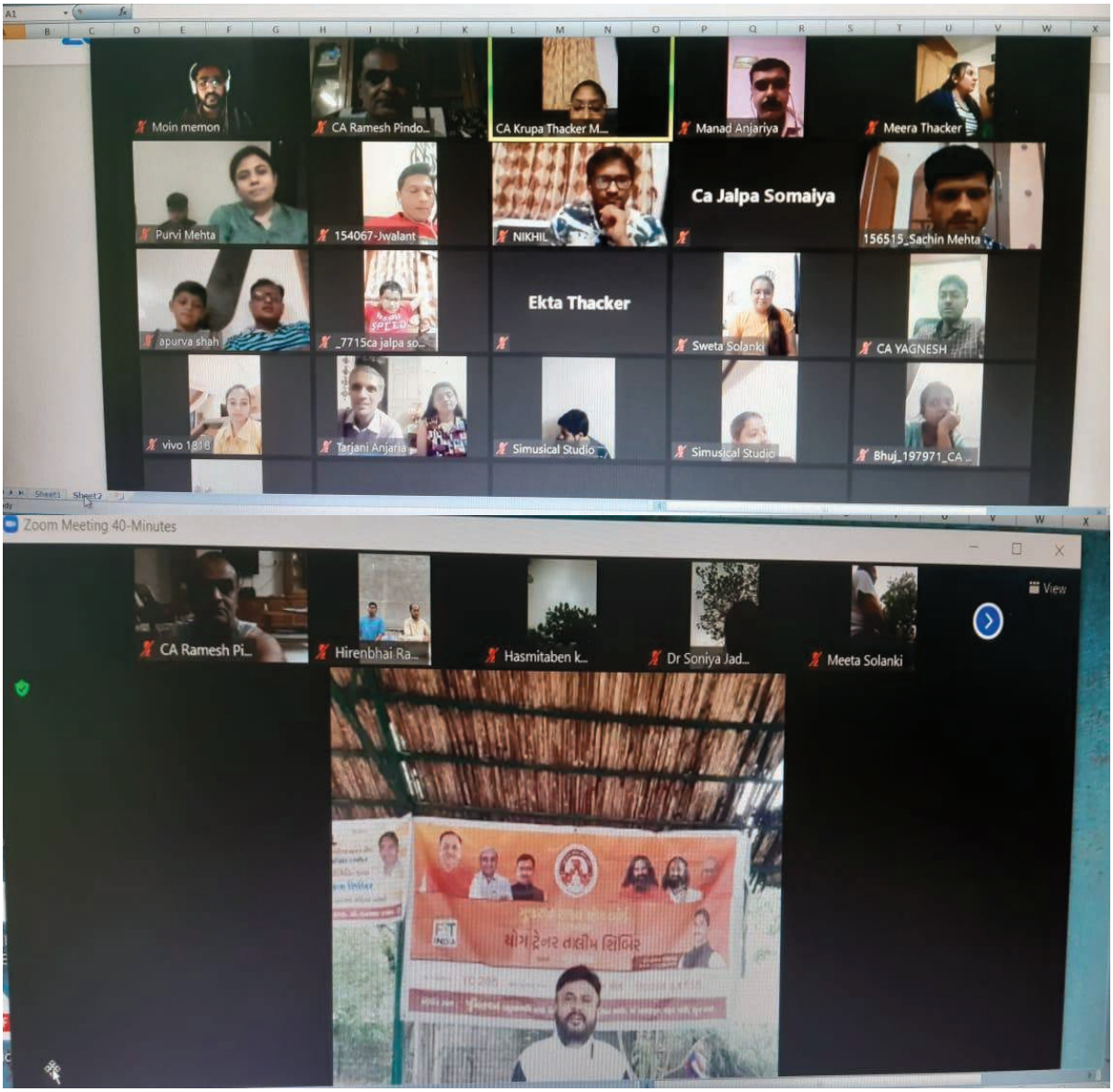
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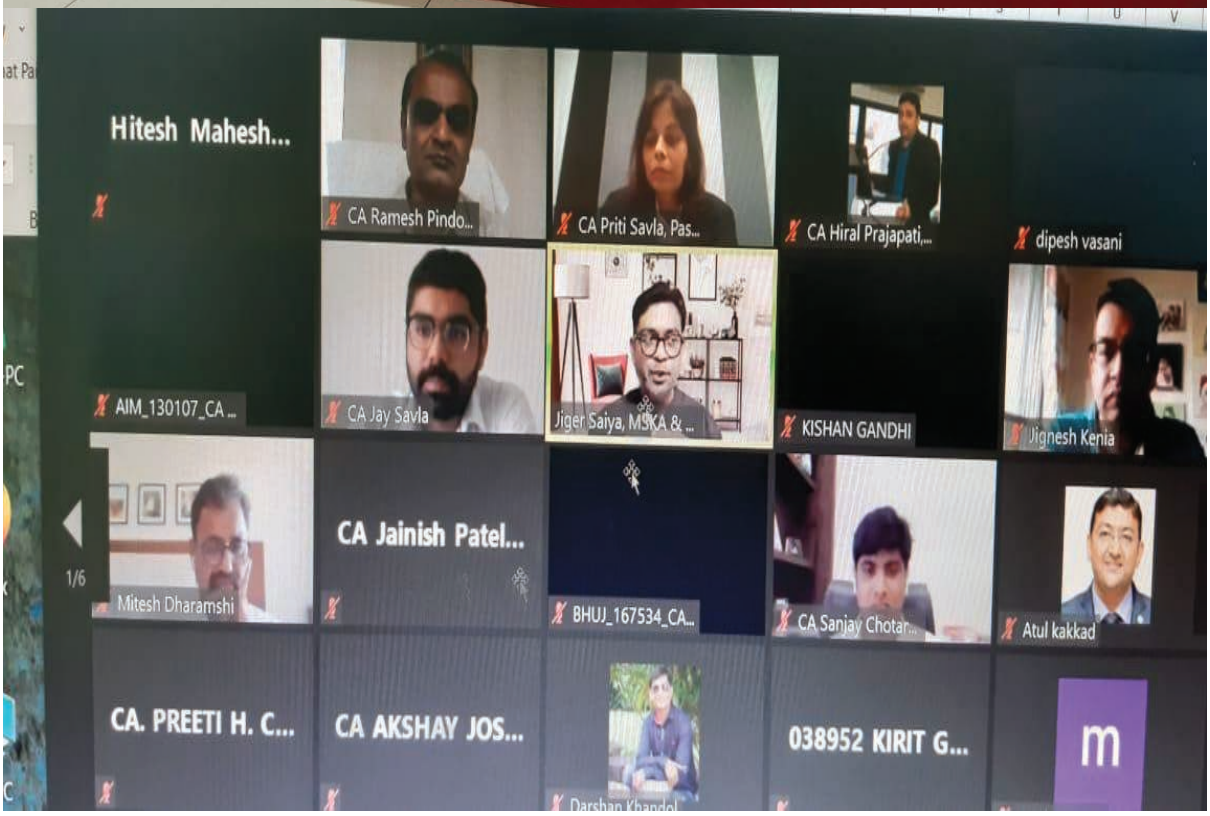
IN ASSOCIATION WITH
TALUKA HEALTH OFFICE (BHUJ)
COVAXIN
VACCINATION CAMP
DATE : 26TH JUNE 2021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CA Hiral Prajapati,...
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CA Jay Savla
Jiger Saiya, MSKA & ...
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