



TAX GURJARI

25-26 - VOL II - JUL 25

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ALL GUJARAT FEDERATION OF TAX CONSULTANTS

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GLIMPSES OF FIRST MOFFUSIL PROGRAM ON 14TH JUNE 2025 AT PALANPUR
EMINENT SPEAKERS : CA MEHUL THAKKER AND ADV (CA) ABHAY DESAI
& RELEASE OF TAX GURJARI VOL 1



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CHAIRMAN'S MESSAGE



CA (Dr.)
VISHVES A. SHAH

Dear Readers,

It is with great pride and a deep sense of appreciation that I share with you the second edition of Tax Gurjari for the activity year 2025-26. This edition reflects the growing enthusiasm, professionalism, and collaborative spirit of our tax fraternity. In times of constant changes, a platform like this becomes more than just a newsletter. Today Tax Gujarati has become a reference, a guide, and a companion for professionals navigating tax and allied law practice.

This edition has been thoughtfully designed to reflect the real and current challenges faced by practitioners today. The write-ups have covered the areas that are not just technically relevant but practically significant. Whether it is understanding the nuances of setting up business entities in foreign jurisdictions or interpreting the applicability of GST on rent and corporate guarantees, the articles present crisp insights, real-world issues, and possible interpretations.

The timing of this publication is also noteworthy, as we stand at the beginning of a crucial compliance season. With the income tax return filing deadlines extended, professionals are working on multiple fronts being ITRs, audits, GST returns, company filings and constantly facing overlapping timelines and diverse client expectations. The responsibility is immense, and so is the opportunity to serve with distinction. In such times, access to quality professional material becomes invaluable, and this publication intends to be exactly that - relevant, useful, and thought-provoking.

What makes this edition more engaging is its inclusive approach. Along with mainstream tax topics, it touches upon personal finance and practice development areas like making a will, importance of nomination, and the usage of accounting software for efficiency. These softer yet critical aspects are often overlooked but carry long-term significance for both professionals and clients. The reflection on financials of non-corporate entities and the recent changes in audit reporting also reminds us how our responsibilities as accountants and auditors are evolving, requiring us to remain not just updated but ready for future changes.

I take this moment to wholeheartedly congratulate the entire editorial and coordination team of Tax Gurjari. Your commitment, clarity of thought, and collaborative approach have brought this edition to life. A sincere thank you to all article contributors as well. Your willingness to share knowledge and effort in writing makes this publication richer and more meaningful.

As professionals, we know that the value of preparation can never be underestimated. In the words of Alexander Graham Bell, *“Before anything else, preparation is the key to success.”* Let us enter this season with preparedness in our minds and purpose in our hearts. May we continue to support each other, share wisdom, and strengthen the community.

Let Tax Gurjari remain a torchbearer of that spirit.

With warm regards,

CA (Dr.) Vishves A. Shah
Chairman, Tax Gurjari Committee
All Gujarat Federation of Tax Consultants

PRESIDENT'S MESSAGE



**ADV.
ASHUTOSH THAKKAR**

Dear Members and Readers,

I am very happy to share with you the Second Volume of Tax Gurjari for the Activity Year 2025–2026. This magazine is one more step in our continuous journey to spread tax knowledge, awareness, and professional insight. With each issue, we aim to provide something fresh, something useful, and something meaningful for our readers.

In this edition, you will find a wide range of topics covering Income Tax, Goods and Services Tax (GST), Allied Laws, and Technology Updates. These subjects have been selected carefully to meet the needs of tax professionals, students, and taxpayers alike. The laws and systems around us are changing quickly, and it is important for us to stay informed. As the saying goes, ***“Knowledge is power. Information is liberating.”***

I want to take a moment to sincerely thank all our writers, editors, reviewers, and contributors. Your hard work, time, and dedication have made this issue possible. Every article you have written adds value and creates awareness. You are helping not just individuals, but the entire professional community.

At the same time, I invite you, our readers, to be part of the Tax Gurjari journey. If you have knowledge, experience, or thoughts on tax matters – whether it’s a legal update, a case study, or a practical solution – we would love to feature your voice. Please write to us at info@agftc.in and contribute your articles. Your contribution can help others learn and grow.

This magazine is not just a publication. It is a platform to encourage writing, build connections, and inspire new thinking. It is also our effort to give space to young professionals who wish to explore and express their ideas. We believe that writing and sharing are key tools for growth in any profession.

We also welcome your feedback. Tell us what you liked, what can be improved, or what more you want to read. Your suggestions help us get better with each edition.

Let me end with a quote that reminds us why taxation is so important:

“Taxes are the price we pay for a civilized society.” – Oliver Wendell Holmes Jr.

Warm regards,

Adv Ashutosh Thakkar

President

All Gujarat Federation of Tax Consultants

SECRETARY'S MESSAGE



CA PARTH DOSHI

Dear Esteemed Members,

It gives me immense pleasure to present to you the latest edition of TAX GURJARI, the flagship publication of the All Gujarat Federation of Tax Consultants. Over the decades, this journal has evolved into a respected source of insight and learning, contributing to the growth of tax professionals across Gujarat.

This edition continues our tradition of delivering timely, practical, and relevant content that addresses the dynamic and evolving landscape of taxation and professional practice. As we step into a transformative financial year, several significant developments await us, and this volume seeks to equip you with clarity and confidence.

CA Mansi Thacker explains the ICAI's newly introduced financial statement format for non-corporate entities, a critical change that takes effect from FY 2024-25. CA Suvrat Shah offers detailed insights on key amendments in Form 3CD, helping professionals prepare for AY 2025-26 with precision.

In the area of tax administration, CA Sunil Maloo explores the operational aspects of the Faceless Assessment Scheme, highlighting both its challenges and future potential. On the GST front, CA Avijit Kr Saraff discusses the implications of GST on residential and commercial rent, while Adv. (Dr.) Kartikey Shah has covered the entire taxation scenario around the Public Charitable Trust.

From a judicial lens, CA Abhishek Raja Ram examines the Allahabad High Court's progressive ruling on GST penalties under Section 129, emphasizing the legal difference between genuine error and deliberate evasion—an area of great significance to all practitioners.

This edition also covers important aspects of financial and personal well-being. CA Parag Raval's article on Wills and Nominations offers guidance on securing family and assets—a topic often overlooked. CA Shridhar Shah shares insights on optimizing accounting software to boost efficiency in professional practice.

Expanding our international outlook, CA Kapil Talreja provides a comprehensive overview of opportunities for Indian Chartered Accountants in the UAE.

I extend heartfelt thanks to all the contributors for sharing their valuable expertise and to the Tax Gurjari Committee for their dedicated efforts in producing this enriching edition. TAX GURJARI continues to empower and connect professionals through knowledge. Let us continue to learn, grow, and progress— together.

Warm regards,

CA Parth Doshi

Hon. Secretary

All Gujarat Federation of Tax Consultants



ICAI'S NEW FINANCIAL STATEMENT FORMAT FOR NON-CORPORATE ENTITIES: A PARADIGM SHIFT IN FY 2024-25



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Introduction

The Institute of Chartered Accountants of India (ICAI) has led in a new era of financial reporting with the introduction of standardized financial statement formats for non-corporate entities, effective from FY 2024-25. This landmark development, formalized through the Guidance Note 2023 on 'Financial Statements of Non-Corporate Entities,' represents a significant shift from the previously flexible reporting practices to a more structured and standardized approach.

What initially appeared as a recommendatory measure has now been confirmed as compulsory for all non-corporate entities from April 1, 2025. This mandatory adoption signals ICAI's commitment to enhancing transparency, comparability, and consistency in financial reporting across all entity types in India.

Background and Rationale

The absence of standardized formats for non-corporate entities had long been a concern in the accounting profession. Unlike corporate entities governed by Schedule III of the Companies Act, 2013, non-corporate entities enjoyed considerable flexibility in presenting their financial statements. This flexibility, while providing convenience, often resulted in inconsistent reporting practices and reduced comparability.

The new guidance note addresses these concerns by establishing uniform reporting standards that align with contemporary accounting practices while maintaining the essence of traditional financial reporting. The objective is to ensure that financial statements of non-corporate entities meet the same standards of transparency and disclosure as their corporate counterparts.

Scope and Applicability

Entities Covered

The new format applies to all non-corporate entities, including:

- Sole proprietorships
- Partnership firms (excluding LLPs)
- Association of Persons (AOP)
- Hindu Undivided Families (HUF) carrying on business.
- Trusts engaged in commercial activities
- Other unincorporated entities

Entities Excluded

- Companies (governed by Schedule III of Companies Act, 2013)
- Limited Liability Partnerships (LLPs) - separate format available
- Non-Profit Organizations (NPOs) - separate guidance exists

Effective Date and Transition

ICAI has introduced a new format for non-corporate entities which is applicable from 1st April, for statements prepared for FY 2024-25. Though the initial communication hinted at the new format being recommendatory, the ICAI has since confirmed that effective April 1, 2025, the new format will be compulsory for all non-corporate entities.

Key Components of the New Format

The revised format comprises three main components, bringing it in line with corporate financial statement presentation:

1. Balance Sheet (Vertical Format)

The balance sheet follows a vertical presentation format with clear segregation between:

Equity and Liabilities:

- Capital/Owner's Equity
- Reserves and Surplus
- Current Liabilities
- Non-Current Liabilities

Assets:

- Non-Current Assets
- Current Assets

2. Statement of Profit and Loss

The profit and loss statement follows a structured format with clear categorization of:

- Revenue from Operations
- Other Income
- Total Income
- Expenses categorized appropriately
- Profit/Loss before and after tax

3. Notes to Accounts

Comprehensive notes covering:

- Accounting policies
- Related party disclosures
- Contingent liabilities and commitments
- Other material disclosures

Significant Changes and Enhancements

Current vs. Non-Current Classification

The new format requires a clear distinction between current and non-current assets and liabilities. Specifically, the previous formats had no requirement for a clear distinction between current and non-current items. This classification brings non-corporate entities in line with corporate reporting standards and provides better insight into liquidity and financial position.

Enhanced Disclosure Requirements

Detailed disclosures on related party transactions, contingent liabilities, and other material financial aspects are

mandatory. This enhanced transparency ensures that stakeholders have access to comprehensive information about the entity's financial position and performance.

Standardized Presentation

The new format eliminates the variations in presentation that were previously acceptable, ensuring consistency across all non-corporate entities. This standardization facilitates better comparison and analysis by stakeholders, including lenders, investors, and regulatory authorities.

Integration of Accounting Standards under the New Format

One of the most significant changes brought about by the ICAI's new financial statement format is the **explicit requirement to adhere to applicable Accounting Standards**, which were earlier often overlooked in the context of non-corporate entities. With the enhanced **disclosure and classification norms**, certain AS now assume critical importance for even small and medium-sized non-corporate entities.

To ensure consistency and transparency in financial reporting, the ICAI has revised the classification criteria for non-company entities, effective from financial year 2024–25. Entities are now categorized into four levels based on turnover and borrowings, with corresponding levels of compliance under the Accounting Standards. The table below outlines the updated thresholds, which replace the earlier limits of ₹ 50 crore turnover and ₹ 10 crore borrowings used in past classifications.

Level	Turnover (excl. other income)	Borrowings (incl. deposits)	AS & Cash Flow Requirements
Level I (Large)	Above ₹ 250 crore	Above ₹ 50 crore	Full AS compliance and Mandatory Cash Flow Statement
Level II (Medium)	₹ 50–250 crore	₹ 10–50 crore	Partial exemptions; Cash Flow not mandatory
Level III (Small)	₹ 10–50 crore	₹ 2–10 crore	More relaxations; Cash Flow optional
Level IV (Micro)	Up to ₹ 10 crore	Up to ₹ 2 crore	Only essential AS; Cash Flow optional

*the above table is for quick reference but for detailed please refer to the guidance note issued by ICAI

Here is the complete table extracted from **Appendix I** of the *Guidance Note on Financial Statements of Non Corporate Entities (August 2023)*, covering the **applicability of AS 1 to AS 29** for **Level II, III, and IV** entities and for Level I every AS is compulsory.

Accounting Standard (AS)	Level II	Level III	Level IV
AS 1	Applicable	Applicable	Applicable
AS 2	Applicable	Applicable	Applicable
AS 3	Not applicable	Not applicable	Not applicable
AS 4	Applicable	Applicable	Applicable
AS 5	Applicable	Applicable	Applicable
AS 7	Applicable	Applicable	Applicable
AS 9	Applicable	Applicable	Applicable

AS 10	Applicable	Applicable with disclosure exemptions	Applicable with disclosure exemptions
AS 11	Applicable	Applicable with disclosure exemptions	Applicable with disclosure exemptions (excluding current-tax)
AS 23	Not applicable	Not applicable	Not applicable
AS 24	Applicable	Not applicable	Not applicable
AS 25	Not applicable	Not applicable	Not applicable
AS 26	Applicable	Applicable	Applicable with disclosure exemptions
AS 27	Not applicable	Not applicable	Not applicable
AS 28	Applicable with disclosure exemptions	Applicable with disclosure exemptions	Not applicable
AS 29	Applicable with disclosure exemptions	Applicable with disclosure exemptions	Applicable with disclosure exemptions

Key Accounting Standards with Elevated Relevance:

Few standards which are to be emphasized now which may have ignored in non corporate are as under:

AS 10 – Property, Plant and Equipment

Previously, many non-corporate entities recorded fixed assets using informal methods, often aligning depreciation schedules with Income Tax Act provisions. Under the new format:

- **Proper classification of PPE into current and non-current** is required.
- **Depreciation must be as per AS 10**, not just as per Income Tax Act.
- **Disclosure of gross block, accumulated depreciation, and net block** is mandatory.
- If revaluation is done, **Revaluation Reserve** must be shown under “Reserves & Surplus” and supported with proper disclosure in notes.

This demands:

- **A detailed fixed asset register**
- Correct depreciation methods (e.g., SLM/WDV as per AS 10)
- Separate tracking for **capital work-in-progress (CWIP)** and **assets held for disposal**

AS 18 – Related Party Disclosures

AS 18, though long applicable, was often ignored by small non-corporate entities. Under the new format:

- Disclosure of **transactions with related parties** (partners, relatives, entities under common control, etc.) is **mandatory**.
- This includes **nature of relationship, amount of transaction, balance outstanding**, and any **terms that are not at arm’s length**.
- These must be **appropriately cross-referenced** in the notes to accounts and should align with audit working papers.

Other Relevant AS to consider:

AS	Was it mandatory before?	What's new in ICAI's 2023 Guidance Note?
AS 1 – Disclosure of Accounting Policies	always applicable.	Now compulsory to disclose as the first note in the financial statements.
AS 9 – Revenue Recognition	Applicable earlier too.	Now emphasis on timing, accrual vs receipt, and clear note presentation.
AS 29 – Provisions, Contingent Liabilities and Assets	Applicable, but often ignored in practice.	Now must be clearly disclosed in notes as per prescribed format.
AS 22 – Accounting for Taxes on Income	<input checked="" type="checkbox"/> Applicable only if deferred tax arises and entity opts to follow it.	Now ICAI encourages disclosure of deferred tax , especially for larger non-corporates.
AS 26 – Intangible Assets	Applicable earlier.	Now specific instruction to show software, brand cost, goodwill , etc. clearly — no more clubbing under “Misc. Expenses”.

Enhancing Compliance through AS Integration

The inclusion of these Accounting Standards within the structure of the financial statements:

- **Elevates the overall financial reporting quality**
- Enhances **audit readiness and stakeholder confidence**
- Brings **non-corporate reporting closer to corporate standards**
- Helps in **defending disclosures in tax assessments, bank audits, and litigation**

Compliance Implications

Mandatory Adoption

It means that professionals and non-corporate entities are expected to adopt the prescribed formats in their financial statements from the financial year 2024–2025 onwards. Non-compliance may result in rejection of financial statements by various stakeholders.

Professional Responsibility

Chartered Accountants preparing or auditing financial statements of non-corporate entities must ensure compliance with the new format. This includes:

- Proper classification of assets and liabilities
- Adequate disclosures as per the guidance note
- Adherence to prescribed terminology and presentation

Stakeholder Impact

It may cause the rejection of financial statements by tax authorities, banks, and other regulatory bodies if the prescribed format is not followed. This underscores the critical importance of compliance.

Benefits of the New Format

- **Enhanced Transparency**
The standardized format provides clearer insights into the financial position and performance of non-corporate entities, benefiting all stakeholders.
- **Improved Comparability**
Uniform presentation enables better comparison across entities and time periods, facilitating decision-making by lenders, investors, and other users.

- **Professional Development**

The enhanced disclosure requirements elevate the quality of financial reporting and contribute to the professional development of CAs handling non-corporate entities.

- **Regulatory Alignment**

The format aligns non-corporate entity reporting with broader regulatory expectations, reducing compliance burden in the long term.

Challenges and Mitigation Strategies

- **Implementation Challenges**

- Initial resistance from clients due to increased disclosure requirements
- Need for system updates and staff training
- Additional time and cost implications

- **Mitigation Strategies**

- Phased implementation approach
- Client education and communication
- Investment in training and technology
- Clear documentation of new procedures

- **Future Implications**

The introduction of standardized formats for non-corporate entities signals ICAI's broader vision of harmonizing financial reporting standards across all entity types. This development may pave the way for:

- Further alignment with international reporting standards
- Enhanced regulatory oversight
- Improved access to formal credit markets for non-corporate entities
- Greater integration with digital reporting platforms

Conclusion

The mandatory adoption of ICAI's new financial statement format for non-corporate entities represents a watershed moment in Indian accounting practice. While the transition may present short-term challenges, the long-term benefits of enhanced transparency, comparability, and professional standardization far outweigh the initial implementation costs.

As chartered accountants, we have a professional responsibility to ensure seamless compliance with these new requirements while helping our clients understand and adapt to the changing landscape. The success of this initiative depends on our collective commitment to maintaining the highest standards of financial reporting and professional excellence.

The new format is not merely a compliance requirement but an opportunity to elevate the quality of financial reporting for non-corporate entities and contribute to the broader goal of transparent and reliable financial information in the Indian business ecosystem.

This article is prepared for professional guidance and should be read in conjunction with the official ICAI Guidance Note 2023 on Financial Statements of Non-Corporate Entities. Practitioners are advised to refer to the latest updates from ICAI and consult relevant regulatory provisions as applicable to specific cases.



KEY CHANGES IN FORM 3CD APPLICABLE FROM AY 2025-26



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In exercise of the powers conferred by section 44AB and section 295 of the Income Tax Act (43 of 1961), the Central Board of Direct Taxes has made certain changes in Form 3CD.

Key Objectives of these Amendments are:

- Alignment with newly inserted tax provisions;
- Sunsetting of obsolete deductions and provisions;
- Strengthening MSME compliance through mandatory disclosures;
- Improving the audit trail for financial transactions and capital movements.

These changes are briefly dealt with in the following discussion:

• **New disclosure requirement added in Clause (12) for section 44BBC**

It applies to income from broadcasting, telecasting, or rights associated with sports events under Section 44BBC of the Income Tax Act. The tax auditor has to certify whether the Profit and Loss Account includes income under this section.

• **Omission of Specific Deductions (Clause 19)**

Several deductions related disclosures have been removed from Clause (19) of Form 3CD to simplify the reporting, which include:

1. **Section 32AC: Investment Deduction for New Plant and Machinery**

Section 32AC provided a 15% deduction on investments exceeding INR 1 billion in new plant and machinery for eligible companies. This deduction was available between assessment years 2014-15 to 2017-18, which is now omitted. Accordingly, the same has been removed from Tax Audit Report also.

2. **Section 32AD: Additional Deduction for Investment in Backward Areas**

This section provided a 15% additional deduction to companies setting up manufacturing units in notified backward areas of Andhra Pradesh, Bihar, Telangana, and West Bengal. The objective was to encourage industrial development in less-developed regions by offering tax incentives for new plant and machinery investments. The same has been removed from Tax Audit Report.

3. **Section 35AC: Deduction for Contributions to Approved Welfare Projects**

100% deduction was available on donations made to government-approved projects for education, healthcare, infrastructure, and environmental sustainability in order to promote corporate social responsibility (CSR) initiatives by incentivizing contributions to social welfare projects. The same has been removed from Tax Audit Report.

4. **Section 35CCB: Deduction for Agro-Based Research Programs**

This section allowed deductions for expenditures on government-approved agro-based research programs, particularly those enhancing agricultural productivity and sustainable farming practices. Contributions made towards these initiatives were eligible for tax benefits to encourage investment in agricultural development.

- **New Disclosure for Regulatory Settlements (Clause 21)**
New requirement is added to disclose the amount of expenses incurred for settlements related to contraventions of laws as notified by the government.
- **Enhanced MSME Payment Reporting (Clause 22)**
Detailed reporting is required to be made in respect of the payments to MSMEs under the MSME Development Act, 2006. They include:
 - Interest not deductible under Section 23 of the MSMED Act.
 - Total amounts payable under Section 15 of the MSMED Act.
 - Out of the total amount payable u/s. 15, amount paid within due date and amount not paid within the due date (which shall be disallowed)
- **Modification in Clause (26) for Section 43B Deductions**
Clause (26), which covers deductions allowable under Section 43B, has been revised to refine reporting requirements and enhance clarity. This clause relates to the actual payments, such as tax, duties, and statutory payments. The new amendment is expected to improve clarity between different kinds of payments that come under Section 43B of the Income Tax Act, 1961.
- **Removal of Clauses (28) and (29) Reporting under Section 56(2)(viiia) & 56(2)(viib)**
These clauses are omitted. These sections are either obsolete or merged into other provisions of the Act.
- **Changes in Loan and Deposit Reporting (Clause 31)**
A significant update is introduced in Clause 31 which is aimed to provide accuracy in reporting of loan and deposit transactions. A formal 12-category coding classification in the form of a drop-down menu for acceptance or repayment of loans or deposits is introduced to classify transactions into specific categories in order to facilitate the analytics and deep scrutiny of financial transactions.
- **New Reporting Requirement for Buyback of Shares (Clause 36B)**
This is a newly inserted clause which mandates reporting of equity share buy-back transactions under Section 115QA. It is expected to enhance monitoring of share buyback transactions and income tax treatment thereof.

Effective Date

All the changes discussed above shall be applicable to all the Tax Audit Reports issued on or after April 1, 2025, i.e., from the A. Y. 2025-26 onwards.

* HEARTIEST CONGRATULATIONS! *

Team AGFTC extends warm wishes
to the newly elected team of
Income Tax Bar Association (Ahmedabad)
for the Activity Year 2025-26.

President: **Shri CA Maulik Patel**
Secretary: **Shri CA Shivam Bhavsar**
& the dynamic team of
office bearers and committee members



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A. Faceless Yet Bound by Procedure: Gujarat HC Quashes Assessment for SOP Violation

Key Insight:

The Gujarat High Court, in the case of Hiraben Pragjibhai Tala v. Income Tax Authorities, has once again reiterated the inviolability of procedural safeguards under the faceless assessment regime. The judgment underscores the binding nature of the Standard Operating Procedure (SOP) dated 03.08.2022, particularly when the assessee fails to respond to notices under Section 142(1).

Background:

The case traces back to AY 2006-07 where assessment originally was completed under Section 143(3), later remanded by the ITAT for fresh adjudication. Following a High Court order setting aside an earlier faceless assessment for violation of natural justice, the matter was reassigned to NaFAC.

However, the second round of assessment again faltered. This time, notices and the draft assessment order were served only on the email ID of the assessee's estranged son—without any SMS or physical communication as mandated under SOP G.3 for non-responsive assessee. The petitioner had no knowledge of the ongoing proceedings until much later, prompting this writ petition.

Procedural Breach Highlighted:

The Court specifically referred to Clause G.3 of the SOP dated 03.08.2022, which lays down mandatory communication protocols when the assessee is non-responsive to notices under Section 142(1). The relevant SOP reads:

G.3 Centralized Communication to Improve compliance of notice under section 142(1):

- G.3.1 In all cases where assessee is not responsive to the notice under section 142(1), on directions of NaFAC, Insight shall:
 - G.3.1.1 Prepare centralized communication, as per format, about non-responsiveness;
 - G.3.1.2 Send physical letter at the latest known address through Speed Post; and
 - G.3.1.3 Send SMS about non-responsiveness on the latest available mobile number of the assessee.
- G.3.2 All attributes of the communication, including PAN, AY, address at which the letter is sent, speed post tracking ID, date on which letter is sent, mobile number on which SMS is sent along with the date and time of sending, will be updated in the database accessible to AU on Insight.
- G.3.3 To ensure completeness of record, the AU shall enter all the details referred in Para G.3.2 above, along with the date of delivery, if any, of the Speed Post letter in the Case History.

HC Verdict:

The Court held that failure to follow the SOP—particularly the requirement of physical communication in cases of non-response—vitiates the entire assessment. The Department's contention that earlier communications had been

responded to was deemed insufficient. The assessment order dated 11.10.2022 was thus quashed, with liberty to re-initiate proceedings strictly in accordance with SOP and principles of natural justice.

Key Takeaways for Practitioners:

- Strict adherence to SOP under Section 144B is not a formality but a jurisdictional prerequisite.
- Faceless regime doesn't override natural justice.
- Incorrect or ineffective service of notices can invalidate entire proceedings.
- Departmental reliance on outdated contact details (even if previously used) must be scrutinized.

Legal Implication:

This decision reinforces judicial commitment to ensuring that the digitisation of tax processes does not dilute procedural fairness. With growing reliance on faceless assessments, this precedent provides a crucial checkpoint for both taxpayers and tax administrators.

Conclusion:

This judgment affirms that faceless assessments, though designed for efficiency and transparency, cannot be a substitute for substantive fairness and procedural compliance. The decision reinforces the principle that technology-driven processes must still comply with established norms of due process and effective service.

B. When Facts Are Ignored, Justice Intervenes: “faceless” cannot become “fact-less”

In a significant development in faceless appellate jurisprudence, the Ahmedabad Bench of the Income Tax Appellate Tribunal (ITAT) has delivered a well-reasoned judgment in *Dharmanandan Developers vs. ITO*, deleting unjustified additions made under Section 68 of the Income-tax Act, 1961, and in respect of sundry creditors. The decision strengthens the legal framework governing burden of proof, relevance of evidentiary submissions, and timing of credits under scrutiny.

Brief Facts of the Case:

The assessee, a real estate concern, was assessed for AY 2018-19 and faced two key additions:

1. 25,00,000 as unexplained unsecured loan from Mr. Sanjivkumar Kiritkumar Patel, added under Section 68 due to alleged non-response to notice u/s 133(6).
2. 29,87,775 as unexplained sundry creditors, particularly in the name of M/s Sai Trading Co., on the ground of lack of confirmation.

Despite clear documentary submissions by the assessee—including ledger copies, PAN, ITR, bank details, and a favorable remand report—the NFAC confirmed the additions.

Issue 1: Section 68 Addition – Unsecured Loan of 25 Lakhs

The AO observed non-compliance with Section 133(6) notice and invoked Section 68. However, the lender did respond with the following:

- Written reply dated 27.04.2021
- Bank statement from Vijay Co-operative Bank
- Ledger account reflecting the loan
- ITR showing income of 25.38 lakhs, affirming creditworthiness.

Despite this, the AO erroneously stated no response was received, and the NFAC overlooked these crucial facts.

ITAT's Findings:

“The addition has been made without any reasonable basis. The AO's conclusion is factually incorrect and contrary to record. Such disregard of evidence violates the principles of natural justice.”

The Tribunal decisively deleted the addition, reiterating that compliance with 133(6), documentary corroboration, and return filings together discharged the assessee's burden under Section 68.

Issue 2: Addition of Sundry Creditor Balance – 29.87 Lakhs

The AO added the opening balance in the account of M/s Sai Trading Co. as unexplained, solely due to non-response to a 133(6) notice. The assessee had however submitted:

- Ledger account of the party
- PAN and transactional details
- Demonstration that the amount was an opening balance from earlier years.

The NFAC once again upheld the addition without appreciating the fact that no new credit was made in the impugned year.

Precedents Relied Upon by ITAT:

Ivan Singh v. ACIT [2020 (2) TMI 850 (Bombay HC); 116 taxmann.com 499]:

This case squarely dealt with a similar issue where a credit pertaining to F.Y. 2006–07 was sought to be taxed in A.Y. 2009–10. The Hon'ble Bombay High Court held:

“From the plain reading of Section 68, it is clear that the sum so credited can be taxed as income of the assessee of ‘that previous year’ in which it appears. If the credit pertains to an earlier year, it cannot be taxed in the current year.”

The Court emphasized that “that previous year” under Section 68 must relate to the year of actual credit and not any subsequent year. The reliance on credits from earlier years to frame additions in later years was held to be impermissible in law.

The judgment also referred to earlier binding decisions:

- CIT v. Bhaichand H. Gandhi [1983] 141 ITR 67 (Bom)
- CIT v. Lakshman Swaroop Gupta & Bros. [1975] 100 ITR 222 (Raj)
- Bhor Industries Ltd. v. CIT [1961] 42 ITR 57 (SC)

These judgments reinforce that the taxing authority must confine its assessment to the correct assessment year as per the statute.

Geeri Fashions Pvt. Ltd. v. ITO [2021 (7) TMI 732 – ITAT Surat; 130 taxmann.com 495]:

Here, the Tribunal held that amounts received towards share application/premium in an earlier financial year could not be taxed under Section 68 in a later year. The principle: credits must be tested in the year of entry, not later.

Key Takeaways:

- Evidence cannot be ignored: Once a lender responds under Section 133(6), and furnishes banking and ITR evidence, the AO is duty-bound to consider it judiciously.
- Burden under Section 68 is threefold—identity, genuineness, and creditworthiness. The assessee established all three.
- Timing of Credit is Crucial: An opening balance carried forward from earlier years cannot attract addition under Section 68 in the current assessment year.
- Faceless Appellate Process Needs Human Diligence: This case reflects how non-application of mind can result in injustice, especially in NFAC orders.

Conclusion:

This ITAT judgment stands as a clear reminder that faceless cannot become fact-less. Judicial discipline and adherence to evidence are the cornerstone of tax assessments. For professionals handling scrutiny and appeals—this ruling is a valuable precedent to rely upon when additions are made ignoring available documentation or when older year balances are questioned under current assessments.

This judgment will be useful to professionals defending scrutiny cases where the addition is rooted in oversight, misreading of timing, or blind disregard of evidentiary compliance.

Since July 1, 2017, the Goods and Services Tax (GST) regime in India has undergone several amendments concerning rental income from residential and commercial properties. This article proposes to pen down date-wise significant changes and summarise at the end, the different methods of taxation on rental income as prevalent on this date.



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Wef 01.07.2017 (GST on Rental incomes):

Notification No & Clause No	Taxability	Particulars
Notification 12/2017 CT(R) – Clause 12	Exempt	Services by way of renting of residential dwelling for use as residence.
Notification 11/2017 CT(R) – Clause 16	Taxable @ 18%	Any rent other than above is taxable

Bullet points:

- If “residential dwelling” was rented out for use as “residence”, it will be exempt. The notification does not make any difference if the purpose of “residence” was for personal use or business use.
- Rental income from any place which was either not “residential dwelling” or was not used for “residence” was taxable @ 18% on FCM basis. Thus, residential dwelling for business purpose OR commercial place for residential purpose OR Commercial place for business purpose; all was taxable on FCM basis.
- Rental income was not under RCM at the time of inception of GST.

Change made wef 25/01/2018 by Notification 03/2018 CT(R): [RCM Notification]

Services supplied by the CG, SG, UT or LA by way of renting of immovable property to a person registered under the CGST will be taxed under RCM

Bullet points:

- Renting of “residential dwelling for the purpose of residence” by CG, SG, UT or LA to any person will remain exempt
- Renting of commercial property by CG, SG, UT or LA to regd person will be taxed under RCM
- Renting of commercial property by CG, SG, UT or LA to unregd person will be taxed under FCM

Change made wef 13/07/2022 by:

a) Notification 04/2022 CT(R) – Exemption Notification

b) Notification 05/2022 CT(R) – RCM Notification

Vide Notification 04/2022 CT(R), the exemption provided by Notification 12/2017 was amended and read as under: “Services by way of renting of residential dwelling for use as residence, except where the residential dwelling is rented to a registered person”.

Vide Notification 05/2022 CT(R), a new RCM entry 5AA was inserted in original Notification 13/2017 CT(R), which read as under:

“Service by way of renting of residential dwelling by any person to any registered person”.

Effect of above Notifications wrt residential dwellings for use as residence:

Landlord	Tenant	Taxability
Unregd	Unregd	Exempt
Regd	Unregd	Exempt
Unregd	Regd	Taxable under RCM
Regd	Regd	Taxable under RCM

Change made wef 01/01/2023 vide Notification 15/2022: [Exemption Notification]

Vide Notification 15/2022, amendment was made to Notification 04/2022. After amendment, the clause reads as under:

“Services by way of renting of residential dwelling for use as residence, except where the residential dwelling is rented to a registered person.”

Explanation: For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, –

- the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and
- such renting is on his own account and not that of the proprietorship concern.”

Bullet points:

- If the regd person (Individual) is using the rented residential dwelling in his own personal capacity for his own residence, it will remain exempt;
- If the regd person (Individual) is using the rented residential dwelling on his own account and not for his business, it will remain exempt (for example: residential dwelling has been taken for family of the regd person but the regd person is not staying himself in that residential dwelling).
- If the regd person (Individual) is using the rented residential dwelling for his proprietorship concern, it will be taxable under RCM (for example: proprietor takes a residential dwelling for use as residence for his employees)
- If the regd person is other than Individual i.e firm, company etc, it will be taxable under RCM.

Changes made wef 10/10/2024 vide Notification 09/2024: [RCM Notification]

Vide Notification 09/2024, a new RCM entry 5AB was inserted, which read as under:

“Service by way of renting any property other than residential dwelling by any unregd person to a regd person” shall be taxable on RCM basis.

Bullet points:

- Prior to 10/10/2024, position of renting commercial property was as under:

Landlord	Tenant	Taxability
Unregd	Unregd	Exempt
Regd	Unregd	Taxable under FCM
Unregd	Regd	Exempt
Regd	Regd	Taxable under FCM

- Wef 10/10/2024, position of renting commercial property is as under:

Landlord	Tenant	Taxability
Unregd	Unregd	Exempt
Regd	Unregd	Taxable under FCM
Unregd	Regd	Taxable under RCM
Regd	Regd	Taxable under FCM

Change made wef 16/01/2025 vide Notification 07/2025 CT(R): [RCM Notification]

Vide Notification 07/2025 CT(R), RCM Entry 5AB was amended to read as under:

“Service by way of renting any property other than residential dwelling by any unregd person to a regd person, other than a person who has opted to pay tax under composition levy” shall be taxable on RCM basis.

Bullet points:

- If commercial property is let out by unregd person to a regd person under normal scheme, then rent will be taxed on RCM basis
- If commercial property is let out by unregd person to a regd person under composition scheme, then it will be exempt.

SUMMARY of taxability of rent :

Landlord	Tenant	Nature of dwelling	Taxability
Unregd	Unregd	Residential	Exempt
Unregd	Regd Individual	Residential (on personal account)	Exempt
Unregd	Regd Individual	Residential (on account of proprietorship concern)	Taxable on RCM basis
Unregd	Regd (other than Individual)	Residential	Taxable on RCM basis
Regd	Unregd	Residential	Exempt
Regd	Regd Individual	Residential (on personal account)	Exempt
Regd	Regd Individual	Residential (on account of proprietorship concern)	Taxable on RCM basis
Regd	Regd (other than Individual)	Residential	Taxable on RCM basis
Unregd	Unregd	Commercial	Exempt
Unregd	Regd (normal scheme)	Commercial	Taxable on RCM basis
Unregd	Regd (composition scheme)	Commercial	Exempt
Regd	Unregd	Commercial	Taxable on FCM basis
Regd	Regd (normal scheme)	Commercial	Taxable on FCM basis
Regd	Regd (composition scheme)	Commercial	Taxable on FCM basis



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INTRODUCTION

Charitable institutions constitute a distinct class of non-profit entities established for the advancement of public welfare and philanthropic objectives. These institutions are governed by legal frameworks such as the Indian Trusts Act, 1882 (in the case of private trusts), the respective State Public Trusts Acts (in the case of public charitable trusts), the Societies Registration Act, 1860, and the Companies Act, 2013 (in the case of Section 8 companies).

For fiscal purposes, they are regulated under the **Income Tax Act, 1961** the Act, which confers tax-exempt status upon entities engaged in activities enumerated under **Section 2(15)**, provided such entities fulfill the statutory conditions prescribed under **Sections 11, 12, and 10(23C)** of the Act. The term "charitable purpose" encompasses relief of the poor, education, yoga, medical relief, preservation of the environment, preservation of monuments or places or objects of artistic or historic interest, and the advancement of any other object of general public utility, subject to limitations imposed by the proviso to Section 2(15) in relation to commercial activities.

Charitable institutions are required to apply their income solely for the furtherance of their stated objects and must ensure that no part of such income inures directly or indirectly to the benefit of any person specified under Section 13(3). Additionally, they must adhere to compliance obligations including registration under Section 12AA/12AB, maintenance of books of account, audit under Section 12A(1)(b), and filing of annual returns in Form ITR-7.

In essence, charitable institutions are legal vehicles for organized altruism, recognized and incentivized by the State for their contribution to the public good. Their existence is rooted not only in benevolence but also in a statutory framework that ensures transparency, accountability, and alignment with the larger public interest.

TAX IMPLICATION IN CASE OF CHARITABLE ENTITIES UNDER INCOME TAX ACT, 1961

1. Section 2(15): Charitable Purpose

- (i) Relief of poor, (ii) Education, (iii) Yoga, (iv) Medical relief,
- (v) Preservation of Environment (including watersheds, forests & wild life),
- (vi) Preservation of monuments or places or objects of Artistic or Historic interest,
- (vii) Advancement of any other object of General public utility.

If an organization is working for the general good of the public, such as promoting welfare, culture, or development (known as "advancement of any other object of general public utility"), **it will not be considered as a charitable purpose** if it carries out any trade, business, or commercial activity. However, it will still be treated as a charitable purpose if the **total income from such business or commercial activity is not more than 20% of the total receipts** of the organization in that financial year.

2. CBDT Clarifications in Easy Terms

If the business income of a charitable organization exceeds 20% of its total receipts, it does not have to cancel its registration under the Income Tax Act.

But in that financial year, **it will not get tax exemption** on its income. Also, **activities related to the promotion of games and sports are considered as charitable purposes** under the law.

3. Section 11(1) – Tax Exemptions for Charitable or Religious Entities

The following types of income are **not taxed** (i.e., exempt) for a registered charitable or religious trust:

- **Corpus Donations** – These are donations meant to be kept permanently (like capital or endowment). These are **fully exempt** as long as they are **invested in the permitted modes under Section 11(5)** (such as bank deposits, government securities, etc.).
- **15% of the Total Income** – Entities are allowed to **retain or set aside up to 15%** of their gross income **without applying it**, and it is still exempt from tax. (This is often called the **standard exemption**.)
- **Income Used for Charitable or Religious Purposes in India** – Out of the remaining 85% of the income, **any part that is actually spent on charitable or religious work in India** will also be exempt.

4. Corpus Donation

A **Corpus Donation** is a **voluntary donation** made **specifically with the instruction** that it should form part of the **core capital (or corpus)** of the trust or institution. It is meant to be **kept intact permanently** and **not used for regular expenses**, but the **interest or income generated from it can be used** for charitable or religious purposes.

5. Section 11(5): Approved Investment Modes for Entities

To claim exemption, a trust must invest its funds only in **specified safe modes**, including:

- **Government-backed securities:**
 - Govt. Savings Certificates, Central Govt./ State Govt. bonds, UTI units, Units of Mutual Fund, Sovereign Gold Bonds, etc.
 - Debentures of companies **guaranteed by Govt.**
 - Equity shares of a **depository** or a **recognized stock exchange/subsidiary**.
- **Deposits:**
 - With **Post Office, Scheduled Banks, Savings Banks, Co-operative Banks, or IDBI**.
- **Public Sector Companies (PSC):**
 - Investment in shares or deposits of **any PSC**.
 - If it **ceases to be a PSC**, the investment is still valid:
For **shares**: up to **3 years** from the date of cessation.
For **other investments**: till their **maturity**.
- **Financial Bonds:**
 - Bonds issued by approved financial corporations or public companies for **long-term financing**.
- **Immovable Property:**
 - Purchase of **land or building** is also allowed.

6. Application of Income (85%)

Explanation 1: If 85% of Income could not be applied during the Current Previous Year (P.Y.)

Under Section 11 of the Income Tax Act, if a charitable or religious trust is unable to apply 85% of its income during the current previous year, it may still claim exemption by fulfilling certain conditions and filing a declaration in **Form 9A** within prescribed timelines.

Situation (a): Income not Received During the Previous Year (Outstanding Income)

- When the income (in whole or part) is **not actually received** during the P.Y. (though recognized under the accrual system of accounting), the trust can submit **Form 9A** to the Assessing Officer (AO) **at least 2 months before the due date of filing return of income** under section 139(1).
- In such a case, the trust must undertake to **apply the said income in the year of actual receipt** or in the **immediately following year**.
- If this condition is fulfilled, the income will be **deemed to have been applied** in the year it was earned (i.e., the current P.Y.).
- **However**, if the income is **not applied** in either the year of receipt or the immediately next year, it shall be treated as **taxable income** in the year of receipt and taxed at **30% under Section 115BBI**.

- **Note:** This option is available only to entities following **accrual basis of accounting** (i.e., income is accounted for even if not received).

Situation (b): Income not Applied due to any Other Reason

- If the income could not be applied during the P.Y. due to **any other reason** (e.g., large donation received at year-end), the trust may still submit **Form 9A** to the AO, again **at least 2 months before the due date** for filing the return under section 139(1).
- The trust must undertake to **apply such income in the immediately following previous year**.
- If so, the income shall be **deemed to be applied** in the year it was earned.
- **However**, if the income is **not applied in the following year**, it shall be treated as **income of that next year** and taxed at **30% under Section 115BBI**.

7. Form 9A

Form 9A is a declaration form that a **charitable or religious trust/institution** must submit to the **Assessing Officer (AO)** when it is **unable to apply 85% of its income** during the **current previous year to defer the application** of income to the next year (or two years, in certain cases) **without losing tax exemption** under Section 11 of the Income Tax Act.

8. Donation to Other Registered Entities or Institutions

Explanation – 2: Donation to Other Registered Entities or Institutions

If a trust or institution **registered under Section 12AA or 12AB**, or approved under **Section 10(23C)**, **gives a donation to another such registered/approved trust**, then:

Such donation is treated as application of income for charitable or religious purposes **only if** it is given as a **general donation** (i.e., not earmarked as corpus).

However, if the donation is given **with a specific direction** that it shall form **part of the corpus** of the recipient trust or institution, then it **shall not be treated as application of income** for the donor trust.

9. Partial Application

Allowed on Donations to Other Entities/Institutions (Applicable from Assessment Year 2024–25 as per Finance Act, 2023)

If a trust or institution donates **any amount** to another trust that is:

Registered under Section 12AA or 12AB, or

Approved under Section 10(23C) (but not falling under the case mentioned in Explanation 2),

Then, **only 85% of the donated amount** will be treated as **application of income** for the purpose of charitable or religious activities.

10. Application of Business Tax Provisions

Explanation – 3: Certain Business Expense Rules Apply to Trust Application

While calculating the **application of income** by a charitable or religious trust, the following **business tax provisions** also apply:

Section 40A(3) & 40A(3A)

Cash payments over **Rs. 10,000** in a day to a single person (other than by account payee cheque, draft, or bank transfer)

- **Not treated as application** of income. If expense was allowed earlier (on due basis), but paid in cash more than Rs. 10,000 in current year
- It will be treated as **income** in current year.

Section 40(a)(ia)

If TDS is **not deducted** or **not paid** (by due date of return) on payment to a **resident**

- **30% of such expense** will **not be allowed** as application. It will be allowed as application in the year TDS is actually paid.

11. Corpus for Religious Place Repairs

Explanation – 3A: Corpus Donation for Religious Place Repairs (Sec. 80G (2)(b))

If a **trust managing a temple, mosque, gurdwara, church, or other notified place** receives **donation for repair or renovation**, it can treat the amount as a **corpus donation**, **only if** all the following conditions are met:

- Used **only** for **repair or renovation**
- **Not given** to any other person
- Maintained as a **separately identifiable corpus**
- **Invested/deposited** as per modes under **Section 11(5)**

If any condition is violated, the donation will be treated as **income** in the year of violation. (**Applicable from A.Y. 2021–22, as per Finance Act 2020**)

12. Explanation – 4: Treatment of Corpus, Loans & Donations (Finance Act, 2021 & 2023)

(i) Application from Corpus Fund

- Amount spent **out of corpus** is **not treated** as application in the year of spending.
- However, if the amount is **reinvested back** into corpus (as per **Section 11(5)**) using income of a later year, it is treated as **application** in the year of re-investment, **to the extent of such deposit**.

(ii) Application from Loans/Borrowings

- Amount applied from **loan or borrowing** is **not treated** as application in the year of expense.
- However, **repayment** of such loan from future income is allowed as **application** in the year of **repayment**, **to the extent repaid**.

Common Conditions (for i & ii):

- Application must be **within India**.
- **Not** by way of **corpus donation** to another trust/institution.
- Must comply with **Sections 40A (3)** (cash limit) and **40(a) (ia)** (TDS).
- **No carry forward** of excess application allowed.
- **No benefit** to persons under **Section 13(3)**.
- **Re-deposit/re-payment** must be done **within 5 years** from end of year in which amount were originally applied.

(iii) Donation to Other Registered Entities [Finance Act, 2023, AY 2024–25]

- Donation to another **12AA/12AB or 10(23C)** trust/institution (not covered under Explanation 2) is treated as application **only to the extent of 85%** of the donated amount.

13. Explanation – 5: No Carry Forward of Excess Application

Any **excess application of income** made in earlier previous year's **cannot be carried forward or set off** in the current year. In short, **carry forward of deficit (excess spending)** is **not allowed**. (**Applicable from Assessment Year 2022–23 as per Finance Act 2021**)

14. Explanation – Timing of Application (Section 11)

Any amount is considered **applied** only in the **year it is actually paid**, regardless of the accounting method followed by the trust.

Once a sum is **claimed as application in a previous year**, it **cannot be claimed again** in any **subsequent year**.

15. Section 11(2): Exemption for Accumulated Income (up to 5 Years)

If a trust or institution **does not apply 85% of its income** in a particular previous year but chooses to **accumulate or set it apart** for a **specific charitable or religious purpose**, such income will still be **exempt**, provided the following conditions are met:

Conditions to Claim Exemption:

- (i) The trust must submit **Form 10** to the Assessing Officer, specifying the **purpose** and **period** (not exceeding 5 years) for which the income is being accumulated.
- (ii) **Form 10** must be filed **at least 2 months before** the **due date** for filing the return under Section 139(1).
- (iii) The accumulated income must be **invested or deposited** only in the modes specified under **Section 11(5)**.
- (iv) The accumulated income **must not be donated** to any **other trust or institution**.

Exclusion from 5-Year Limit:

If the income **could not be applied** due to a **court order**, the **period of such restriction** will be **excluded** from the 5-year accumulation limit.

16. Section 13(9): Loss of Exemption if Return/Statement Not Filed on Time

Exemption under **Section 11(2)** shall be **denied** if:

- (i) **Form 10/9A** (statement of accumulation or deemed application) is **not filed** by the **due date** of return u/s 139(1), or
- (ii) **Return of income** is **not filed** by the due date under **Section 139(1)**.

CBDT Circular No. 6/2023 Clarification:

While Form 10/9A should ideally be filed **at least 2 months before** the return due date (for audit purposes), **exemption will not be denied** as long as the form is filed **on or before the due date** u/s 139(1).

17. Section 11(4)/(4A): Business Income of Trust

A trust can claim exemption on **business income** under Sections **11(1) & 11(2)** **only if**:

- (i) The business is **incidental** to the trust's **main charitable/religious objectives**, and
- (ii) **Separate books of account** are maintained for such business.

If, during assessment, the A.O. detects **concealment of business income**, then exemption **shall not be available** for the **concealed portion**.

18. Section 11(6): No Double Benefit of Depreciation

If the **cost of an asset** has already been claimed as **application of income**, then **depreciation** on the same asset **cannot be claimed again** as application in any previous year.

19. Section 11(7): Restriction on Dual Exemption

Where a **trust or institution** claims exemption under **Section 11**, it **shall not be entitled** to claim any other exemption under **Section 10**, **except** the following:

- **Section 10(1)** – Agricultural income
- **Section 10(23C)** – Exemption for certain funds/universities/hospitals (only if opted)
- **Section 10(23EC)** – Investor Protection Fund
- **Section 10(46)/(46A)** – Notified statutory bodies or authorities

Thus, a trust **can claim** both **Section 11** and **Section 10(1)** exemption, but **not other Section 10 exemptions** simultaneously.

Proviso – Inoperative Registration under 12AA/12AB:

If a trust is granted approval under **Section 10(23C)(iv)/(v)/(vi)/(via)** or is **notified under Section 10(46)**, then its registration under **Section 12AA/12AB** shall become **inoperative from the date** of such approval or notification. From 01.10.2024, *no fresh approval or renewal* will be granted under Section 10(23C) (iv), (v), (vi), and (via).

A trust/institution can **either** claim exemption under:

- (i) **Section 11/12** (with 12AA/12AB registration), **OR**
- (ii) **Section 10(23C) or 10(46)** (with respective approval/notification), — but **not both** at the same time.

20. Registration under Section 12AB

To claim exemption under Sections 11 and 12, a charitable or religious trust/institution must be registered under Section 12AB. The process varies based on the trust's stage and situation:

(I) Existing Trusts (Registered under Section 12A/12AA)

Must re-apply in Form 10A (original deadline: 30.06.2021; extended to 30.09.2023). Registration granted for 5 years without inquiries.

(II) New Trusts (Fresh Application)

Apply at least 1 month before the PY in which exemption is sought (Form 10A). Granted Provisional Registration for 3 years (no inquiries).

(III) Trusts with Provisional Registration (Seeking Final Registration)

Apply in Form 10AB:

6 months before expiry of provisional registration, or

6 months from start of activities, whichever is earlier. Final registration granted for 5 years (with inquiries).

(IV) Renewal of Registration

Trusts already registered under Section 12AB must apply in Form 10AB 6 months before expiry of current registration. Granted for 5 years (after verification).

(V) Modification of Objects

If objects change and no longer align with registration, apply in Form 10AB within 30 days of modification. Fresh registration for 5 years (with inquiries).

(VI) Re-activation after Inoperative Status (Section 11(7))

If registration became inoperative (e.g., opted for 10(23C)), apply in Form 10AB 6 months before start of relevant AY. Registration valid for 5 years.

Where a trust has **already commenced activities** and has **not claimed exemption** under Section 11 or 12 for any previous year before the date of application, it **need not apply for provisional registration**. Such a trust may **directly apply for final registration in Form 10AB** anytime after commencement of its activities.

Hence, from **01.10.2023**, only entities/institutions that **have not commenced their activities** are required to obtain **provisional registration**.

21. Section 12A: Conditions for Applicability of Exemptions under Sections 11 and 12

In order to avail the benefits of exemption under Sections 11 and 12 of the Income Tax Act, a charitable or religious trust/institution must satisfy the following conditions:

(I) Mandatory Registration

The trust or institution must be **registered under Section 12AB**.

(II) Books of Accounts and Audit

If the **total income** (before claiming exemption under Sections 11 and 12) **exceeds the basic exemption limit**, the trust must:

- **Maintain proper books of account and related documents**, and
- **Get the accounts audited** by a Chartered Accountant,
- **Furnish the audit report** in the prescribed form within the time specified under **Section 44AB**.

(III) Filing of Income Tax Return

The trust/institution must file its **return of income** under **Section 139(4A)**,

The return must be filed **within the due date** prescribed under **Section 139(1)** or **Section 139(4)**.

22. Section 12AB: Procedure for Registration and Cancellation

(I) Grant of Registration:

On receipt of application, the CIT/PCIT may grant regular registration for 5 years or provisional registration for 3 years, as applicable.

(II) Examination of Application:

CIT/PCIT may call for documents and information to verify:

- The genuineness of activities, and

- Compliance with other applicable laws relevant to the trust's objectives.

After due examination, the Commissioner may:

- Grant registration,
- Refuse registration, or
- Cancel existing registration.

(III) Cancellation of Registration:

If registration/provisional registration has been granted and:

- CIT/PCIT detects a specified violation in any previous year,
- Receives a reference from the AO under the 2nd proviso to Section 143(3), or
- The case is selected under CBDT's risk management strategy,

Then, the CIT/PCIT shall:

- Call for further documents/information or conduct inquiry.
- If satisfied that a violation has occurred, issue an order cancelling the registration, after giving an opportunity of being heard.
- If not satisfied, pass a written order refusing cancellation.

Such order must be passed within 6 months from the end of the quarter in which the first notice was issued.

A copy of the order shall be forwarded to the AO and the trust.

(IV) Specified Violations Include:

- Application of income not aligned with trust's objectives.
- Business income not incidental to objectives or no separate books maintained.
- Income applied for private religious purposes.
- Income applied for benefit of a particular religious community or caste.
- Non-genuine activities or violation of registration conditions.
- Non-compliance with any other law, where such non-compliance is undisputed or has attained finality.
- Incomplete or false information in the registration application (w.e.f. 01.04.2023).

23. Section 13: Cases Where Exemption Under Sections 11 & 12 is Denied

(I) Section 13(1): Denial of Exemption

Exemption under Sections 11 & 12 shall **not be available** in the following cases:

- Income is applied for **private religious purposes**.
- Income benefits **any particular religious community or caste**.
- Income is used for the **benefit of any specified person** under Section 13(3).
- Funds are **invested in modes not specified under Section 11(5)** — exemption denied **to the extent of such investment**.

(II) Section 13(3): Specified Persons Include:

- Author or founder of the trust
- Donor contributing **more than Rs. 50,000** in a previous year
- Members of HUF, where donor/founder is HUF
- Trustees or managers of the trust
- **Relatives** of the above persons (as defined under Section 56(2)(x))
- Any **concern** in which the above persons have **substantial interest**

(III) Section 13(6): Medical/Educational Benefits to Specified Persons

If a medical or educational trust provides any **facility to a specified person**, the **fair market value (FMV)** of such facility is treated as **income**, and **no exemption** under Sections 11 or 12 is allowed on that part.

24. Section 11(1A): Capital Gains Deemed as Applied for Charitable Purposes

Where a trust sells a capital asset and uses the net sale consideration to acquire another capital asset, then capital gains are considered as applied for charitable purposes as follows:

- **Full Utilization:** If the entire net consideration is reinvested in a new capital asset, the entire capital gain is treated as applied and thus exempt.
- **Partial Utilization:** If only a part of the net consideration is reinvested, then the amount of capital gain exempted shall be equal to the cost of the new asset minus the cost of the original asset.

25. Section 115BBI: Taxation of Specified Incomes at Special Rate

Under Section 115BBI, certain specified incomes of entities and institutions are taxed at a flat rate of 30%, without allowing any deduction for expenses, allowances, or loss set-offs. These include:

- (i) Income accumulated or set apart beyond the permissible 15%, where such accumulation is not allowed under the Act.
- (ii) Deemed income under Explanation 1 to Section 11(1), such as unapplied income claimed to be spent in a later year.
- (iii) Income deemed under Section 11(3) (e.g., accumulated income not spent within permitted period).
- (iv) Income applied or diverted for the benefit of specified persons (as covered under Section 13(1)).
- (v) Income not invested/deposited as per the prescribed modes under Section 11(5).
- (vi) Income used for purposes outside India, which does not qualify for exemption.

Note: Tax is levied on such incomes without allowing any expenditure deduction or set-off of losses.

26. Section 115BBC: Tax on Anonymous Donations

Anonymous donations received by a trust or institution are taxable at 30% to the extent they exceed the higher of:

- 5% of total donations received (including corpus and government grants), **or** - Rs. 1,00,000

Key Points:

Wholly Religious Entities: Not liable to tax under Section 115BBC.

Charitable Entities: Anonymous donations are taxable under Section 115BBC.

Religious-cum-Charitable Entities:

- **Exempt** if donation is for religious purposes.
- **Taxable** if made with specific direction to use in educational/medical institutions.

If not taxable under 115BBC, anonymous donations are considered under normal provisions and may be exempt u/s 11 or 12 subject to conditions.

Tax Treatment:

The taxable portion of anonymous donations is taxed at 30%.

Remaining income is taxed as per normal slab rates applicable to the trust.

27. Section 115TD: Tax on Accreted Income (Exit Tax)

Accreted income of a trust/institution registered under Section 12AA/12AB or approved under Section 10(23C)(iv)/(v)/(vi)/(via) is taxed at the **Maximum Marginal Rate (MMR)** (currently 34.944%) in the following cases:

- Conversion into a non-eligible trust (i.e., not eligible for registration/approval under Section 12AA/12AB/10(23C)).
- Merger with a trust not having similar objects or not registered/approved under said sections.
- Failure to transfer assets to another eligible trust/institution within 12 months from dissolution.
- Exit tax is in addition to normal income tax payable by the trust or institution.

- Exit tax has to be paid within 14 days of arise of obligation to pay tax.

28. Section 115TE – Interest on Delay:

Interest at **1% per month or part thereof** applies from the 15th day after the due date until payment is made.

29. Section 115TF – Assessee Deemed in Default:

If exit tax is unpaid:

- **Principal officer/trustee** is deemed assessee in default.
- **Recipient of assets** (if not a registered trust) is also deemed in default, but liability is limited to FMV of assets received.

30. Section 12AC & Exit Tax – Merger Exception

As per recent clarification:

Exit Tax under Section 115TD shall NOT apply in case of a **merger of a charitable trust/institution** (registered under Section 12AB or approved under Section 10(23C)) **with another such trust/institution having similar objects and duly registered/approved, provided** the merger is **not in violation of conditions of registration**.

Conditions to Avoid Exit Tax in Merger Cases:

- Both entities** are registered under **Section 12AB** or approved under **Section 10(23C)**.
- The **objects of both entities/institutions are similar**.
- The merger is not:
 - With a **non-eligible trust**, or
 - In **contravention of the conditions** of registration/approval.
- Assets are transferred** to the merged trust in accordance with the prescribed conditions.

CONCLUSION

The taxation of charitable and religious institutions in India is not merely a fiscal mechanism—it is a deliberate constitutional and legislative instrument designed to foster inclusive social development, equity, and public welfare. Embedded within the fabric of the Income-tax Act, 1961, and harmonized with the Directive Principles of State Policy under Articles 38 and 39, the exemption provisions are a recognition of the indispensable role such institutions play in supplementing the efforts of the State in areas such as education, healthcare, poverty alleviation, and preservation of cultural heritage.

Sections 11 and 12 form the bedrock of this exemption regime, ensuring that income applied toward genuine charitable purposes is not subject to tax, thereby enabling institutions to reinvest surpluses into community-centric activities. Complementary provisions under Sections 12A, 12AB, and 10(23C) prescribe a comprehensive regulatory framework to ensure that only those institutions which adhere to the principles of public benefit, transparency, and accountability are entitled to these tax privileges.

However, tax exemption is not an absolute right; it is a conditional concession granted in furtherance of a larger societal objective. The introduction of Section 12AB for fresh registration and periodic renewal, the codification of conditions under Section 12AC, the refinement of income application rules, and the imposition of exit tax upon conversion or misuse, collectively signify the legislative resolve to insulate the exemption regime from misuse and to uphold the integrity of philanthropic endeavors. At its core, the law seeks to reinforce the **true object of charity—selfless service without personal gain**. The exemption provisions are not intended to create tax shelters or conduits for commercial activity in the guise of charity, but to empower organizations that genuinely strive to serve marginalized and underprivileged sections of society. The evolving jurisprudence in this domain has consistently reiterated that the test of a charitable institution lies not in its nomenclature, but in the **real-time application of income, purpose-driven activity, and absence of private profit motive**.

In summation, the Indian tax law recognizes charitable institutions as partners in nation-building and accords them beneficial treatment. But this recognition is predicated on the unwavering alignment of their functioning with the principles of altruism, public utility, and statutory compliance. The tax exemption is, therefore, not a reward, but a **functional facilitation**—a means to an end—which must be preserved, protected, and honored through strict adherence to both the **letter and spirit of the law**.

INTENT VS. ERROR: ALLAHABAD HC'S PROGRESSIVE APPROACH TO SECTION 129 GST PENALTIES



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Introduction

The Goods and Services Tax (GST) regime, while streamlining India's indirect tax structure, has brought with it stringent compliance requirements, particularly regarding e-way bills for goods in transit. Section 129 of Central Goods and Services Tax Act, 2017, empowers tax authorities to detain goods and vehicles and impose penalties when discrepancies are found. However, recent judicial pronouncements by the Allahabad High Court have established crucial precedents that distinguish between genuine tax evasion attempts and innocent clerical errors.

The year 2024 has witnessed a series of landmark judgments from the Allahabad High Court that have significantly clarified the scope and application of penalty provisions under Section 129, particularly emphasizing the critical element of "intent to evade tax." These decisions collectively represent a more nuanced and taxpayer-friendly interpretation of GST penalty provisions, moving away from a purely mechanical application of the law.

The Legal Framework: Understanding Section 129

Section 129 of the CGST Act provides for the detention of goods and conveyances in transit when proper documentation is not available or when discrepancies exist in the accompanying documents. The provision empowers proper officers to detain goods and impose penalties, ostensibly to prevent tax evasion and ensure compliance with GST regulations.

However, the critical question that has emerged in various litigations is whether every discrepancy, regardless of its nature and the taxpayer's intent, warrants the imposition of penalties. The Allahabad High Court's recent decisions have provided much-needed clarity on this aspect.

Case Analysis: Five Landmark Decisions

1. Rimjhim Ispat Ltd. – The Typographical Error Precedent

In the case of **Rimjhim Ispat Ltd. [(2024) 22 CENTAX 457]**, the Allahabad High Court established a fundamental principle that penalties under Section 129(3) cannot be imposed solely on the detention of goods and vehicles when the discrepancy in the e-way bill is merely typographical in nature, absent any intention to evade tax.

This judgment is particularly significant as it recognizes the practical reality that in the complex process of generating e-way bills, minor typographical errors are inevitable and should not be treated with the same severity as deliberate attempts to evade tax obligations.

2. Banaras Industries – Production of E-Way Bill Before Seizure

The **Banaras Industries case [2024-VIL-814-Alh]** addressed a common scenario where goods are initially detained for non-production of e-way bills, but the required documentation is subsequently provided before formal seizure orders are passed. The Court held that when there is no finding regarding intention to evade tax, orders imposing tax and penalty on detention of goods in transit cannot be sustained.

This decision emphasizes the importance of examining the taxpayer's conduct holistically rather than focusing solely on initial non-compliance, particularly when such compliance is achieved before formal adverse action.

3. **AA Plastics Pvt. Ltd. – Expired E-Way Bill Due to Driver’s Diversio**

Perhaps one of the most practical and empathetic judgments came in **AA Plastics Pvt. Ltd. [(2024) 21 CENTAX 381]**, where goods in transit were detained due to an expired e-way bill. The taxpayer’s explanation that the driver had diverted the truck for personal reasons without informing the company was accepted by the Court.

The High Court quashed the detention and penalty orders, reiterating that proceedings under Section 129 read with Section 130 require proof of intent to evade tax, which the revenue authorities had failed to establish. This judgment acknowledges the ground realities of goods transportation and the challenges faced by businesses in controlling driver behavior.

4. **BMR Enterprises – Minor Vehicle Number Discrepancy**

The **BMR Enterprises case [2024-VIL-516-ALH]** dealt with a situation where the vehicle number in the e-way bill contained minor discrepancies. The correct vehicle number was UP 83 CT 2724, while the e-way bill showed UP 80 CT 7024. Despite this discrepancy, the High Court set aside the penalty order, categorizing it as an unintentional mistake that does not attract penalty provisions.

This decision is crucial for logistics and transportation companies, as it recognizes that minor clerical errors in vehicle registration details should not result in penal consequences when there is no evidence of deliberate tax evasion.

5. **Deco Plywood Industries – Invoice Number Discrepancy**

In **Deco Plywood Industries [2024-VIL-224-ALH]**, the Court addressed discrepancies in invoice numbers within e-way bills. The e-way bill showed document/invoice number 2224 instead of the correct number 0401. The High Court quashed the penalty orders, ruling that Section 129 penalties cannot apply to minor, non-evasive errors.

This judgment further reinforces the principle that penalty provisions should not be mechanically applied to every discrepancy but should be reserved for cases where there is clear evidence of intent to evade tax obligations.

Emerging Legal Principles

The Intent Doctrine

The most significant contribution of these judgments is the establishment of the “intent doctrine” in GST penalty jurisprudence. The Courts have consistently held that the mere existence of discrepancies in e-way bills is insufficient to attract penalty provisions under Section 129. The revenue authorities must establish that such discrepancies were deliberate and intended to evade tax obligations.

Proportionality in Penalty Imposition

These decisions collectively advocate for a proportionate approach to penalty imposition. Minor clerical errors, typographical mistakes, and unintentional discrepancies should not attract the same penal consequences as deliberate attempts to evade tax. This approach aligns with natural justice principles and promotes a more business-friendly tax administration.

Burden of Proof on Revenue

The judgments place a clear burden on revenue authorities to establish intent to evade tax before imposing penalties. This shift from presumptive guilt to requiring proof of intentional wrongdoing represents a significant procedural safeguard for taxpayers.

Practical Implications for Taxpayers

Documentation and Record Keeping

While these judgments provide relief for genuine errors, taxpayers should maintain comprehensive documentation to demonstrate the bona fide nature of any discrepancies. Proper record-keeping can serve as crucial evidence of lack of intent to evade tax.

Immediate Response to Detention

When goods are detained, taxpayers should immediately provide all relevant documentation and explanations for any discrepancies. The Banaras Industries case demonstrates that prompt compliance can prevent escalation of proceedings.

Legal Recourse

These precedents provide strong legal grounds for challenging penalty orders based on minor discrepancies. Taxpayers facing similar situations can rely on these judgments to seek relief from appellate authorities and Courts.

Implications for Tax Administration

Need for Training and Sensitization

Tax authorities need to be sensitized about these judicial pronouncements to ensure uniform application across jurisdictions. Training programs should emphasize the distinction between genuine errors and deliberate evasion attempts.

Revised Standard Operating Procedures

The GST administration should consider revising its standard operating procedures for detention and penalty imposition to incorporate these judicial principles, ensuring that penalty provisions are not mechanically applied.

Future Outlook and Recommendations

Legislative Clarity

While judicial interpretation has provided much-needed clarity, legislative amendments could further clarify the scope of penalty provisions, potentially incorporating provisions for de minimis errors or safe harbors for genuine mistakes.

Technology Solutions

The implementation of more sophisticated validation systems in e-way bill generation could help reduce inadvertent errors, thereby minimizing the scope for disputes and litigation.

Harmonization Across High Courts

While the Allahabad High Court has taken a progressive stance, similar clarity from other High Courts would ensure uniform application of these principles across India.

Conclusion

The Allahabad High Court's 2024 decisions on GST penalties represent a watershed moment in indirect tax jurisprudence. By emphasizing intent over mere discrepancy, these judgments have restored the balance between tax compliance and business practicality. They recognize that in the complex landscape of GST compliance, genuine errors are inevitable and should not be treated with the same severity as deliberate tax evasion.

For taxpayers, these decisions provide much-needed relief and establish important precedents for challenging wrongful penalty impositions. For tax authorities, they serve as a reminder that penalty provisions should be applied judiciously, with due consideration for the taxpayer's intent and the nature of the alleged violation.

As the GST regime continues to evolve, these judicial precedents will likely influence both administrative practices and future legislative developments, contributing to a more balanced and fair tax administration system. The emphasis on intent-based penalty imposition represents a maturation of GST jurisprudence and aligns with global best practices in tax administration.

The legal fraternity and tax practitioners should closely monitor how these principles are applied by other High Courts and whether they ultimately receive endorsement from the Supreme Court, as such validation would provide pan-India applicability and further strengthen taxpayer protection against arbitrary penalty imposition.

UNDERSTANDING WILLS & NOMINATIONS

(Secure Your Family's Future with Clarity & Confidence)



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What is Will :

Legal declaration of a person's wishes regarding the disposal of his or her property or estate after death (specifying how it should be distributed after their death).

It is a written instrument legally executed by which a person makes disposition of his or her estate. This declaration takes effect only upon the testator's death.

Will offers peace of mind and prevents inheritance confusion among heirs.

Parties to the Will :

1. **Testator** : A person making the Will. He/she has the power and authority of disposing off the assets as per his wish.
2. **Beneficiaries** : All those persons or body of persons or an organization who Benefit from the Will.
3. **Witnesses** : The person/s chosen by the testator to countersign the Will. They should also be “disinterested,” meaning they aren’t related to the testator by blood or marriage.
4. **Executors** : Someone trusted by the testator who plays a crucial role in execution of the Will. On demise of the testator, the executors Undertakes the responsibility of executing the wishes and desires of the testator as per the Will. He is responsible for the final Distribution of the estate of the testator as per the Will.

Why the Will Matters

Common Misconceptions

People do not understand importance of the Will – many myths & misunderstandings prevails.

Without a Will

Assets are often misused; Family conflicts, disputes, and tragedies arise. Even sometimes results in fights and murders. Often, family members may be unaware of the full extent of the deceased's assets, making it difficult for them to manage or access them after their death. When multiple legal heirs are involved and no will exists, it can lead to significant complications and disputes.

With a Will

Your wishes are honored; disputes are reduced significantly.

A. Legal Framework – If a person dies with the Will

1. Indian Succession Act, 1925

Applies to Hindus, Jains, Sikhs, Christians, Buddhists, Jews, Parsis.

2. The Muslim Personal Laws (Shariyat) Act, 1937

Governs Muslims’ asset distribution after death with the will.

B. Legal Framework – If a person dies without the Will

1. Hindu Succession Act, 1956

Applies to Hindus, Jains, Sikhs, Buddhists dying intestate.

2. Indian Succession Act, 1925

Applies to Christians, Jews, Parsis without the will.

3. Muslim Personal Laws (Shariyat) Act, 1937

Governs Muslims without a will on inheritance matters.

Outcome

Assets are distributed as per the applicable legal provisions. If an individual wishes to avoid the default distribution under the Hindu Succession Act, it is essential to draft a will. The distribution of their property will occur according to these legal provisions, potentially against their wishes.

Who Should Make the Will?

1. Every Asset Owner. All adults who own assets should prepare the will.
2. Uncertain Future. Death is certain; planning is always wise.
3. Myth Busting – Wills are not only for the wealthy.
4. Way by Will – Will decides who will own your assets after your death (preferential inheritance).

Benefits of making the Will :

1. Protects family and dependents like Father, Mother, Spouse, Children.
2. Specifies who will receive your possessions.
3. Names responsible individuals to carry out your wishes.
4. Your intentions become clear and legally recognized.
5. Fulfillment of your post death desires, body/organ donation.
6. To name who will take care of your children & dependents.

Key Information to Include in the Will :

1. Full Name, Age, Birth date, Address, Father's Name.
2. Date of Will.
3. Names of Executors, Address, Age, Relation.
4. List of all Immovable & Movable Assets.
5. Reason/s for making the Will (Old age, Illness).
6. Signature of testator.
7. Names & Signature of minimum two witnesses.
8. Specify distribution of assets.
9. Names of beneficiaries & relation.

Moveable Assets to Mention in the Will

1. Bank accounts (savings, current, loans).
2. Safe deposit lockers (at Bank or other places).
3. Fixed Deposits with Bank, Post Office, Companies, etc.

4. PPF / EPF Account.
5. Investment in Mutual Funds, Bonds, NSC, etc.
6. Investment in Shares & other securities.
7. Life insurance policies.
8. Gold, silver, diamonds, ornaments, etc.
9. Advances made.
10. Digital accounts passwords and access information (Computer, Mobile, Social media, etc.)

Common Mistakes to Avoid

1. No nomination in Bank Accounts, FDs & other investments.
2. No nomination or no change in nomination despite death of nominee.
3. Important documents or receipts – stored at place unknown to all – not handy or easily accessible.
4. Relying on verbal wishes instead of written instructions.
5. Non-registration of Will despite knowing all chances of disputes in family and challenge to will.
6. Inadequate asset description & its location.
7. Confusing method of asset allocation – leading more interpretations.
8. Appointing beneficiaries as executors.
9. Failing to appoint guardians for minor beneficiaries.
10. Not updating Will after significant changes in assets.
11. There is no prescribed format of a Will.
12. Will is a male's prerogative, no female can prepare it.

Understanding Useful Information About Wills

1. It can be prepared only by a competent person – (adult, sound mind).
2. Will can be prepared of an asset either you have produced or received from HUF or received by inheritance. Once partitioned, it becomes self-acquired property and can be willed to anyone.
A testator can only dispose of by a will property over which he has absolute ownership. This is also called self-acquired property.
3. You have a right to determine allocation of assets you own as mentioned in (2) above.
4. Assets produced by you or interest in assets of HUF can be mentioned in the Will.
5. Will gets triggered only after your death. Till death you can enjoy your assets freely. Will always speaks from the death of the testator.
6. Will can be changed/amended n number of times. Will of the latest date shall be considered as final.
7. Will with the latest date shall prevail. All earlier Will become null and void automatically.
8. Modifications/changes in Will can be carried out through Codicil. No need to prepare the Will afresh.
9. Will can be prepared on plain paper. No need for Stamp Paper or Legal Paper. A will written on a simple piece of paper also derives legal value being a will. No Stamp Duty.
10. The signature of the creator should be in the presence of two witnesses. It is not necessary that witnesses should be aware of the contents of Will or have read the Will.
11. As far as possible, the beneficiary of the Will should not act as witness. This will prevent unnecessary disputes.
12. Will should be prepared in simple and clear language. No need for legal language. The desires of the preparer should be **crystal clear (unambiguous)**. The language should not lead to more than one interpretation. It should be free from Patent and Latent Ambiguities.

13. It is advisable that the creator signs each page of the Will.
14. Will can be prepared, changed or amended any number of times. The date will decide the finality of the Will.
15. In case of correction or overwriting, the preparer should sign in the margin nearby. If multiple corrections or alterations, it is ideal to go for the Will anew.
16. Registration or listing of Will is not mandatory. However, Registration of the Will is most desirable if there are enough reasons that :
 - (i) dispute is going to arise in future.
 - (ii) validity of the Will is going to be challenged; and
 - (iii) in case of property transfer, sometimes the registrar demands a registered Will.

Sometimes Will is presented before the Notary for notarization. However, Registration is the most secured path **as it has more evidentiary value.**

In the case of *Ishwardeo Narain Singh vs Sm. Kamta Devi and Ors.* AIR 1954 SC 280, 1953 (1) BLIR 690, it was held by the Supreme Court that non-registration of the will cannot be held as a reason for the invalidity of the will.
17. The signature of the Testator and Witnesses at the end of the Will is the conclusive proof of its validity. However, to prove that creator has signed in good mental state, a certificate from the Doctor should also be obtained and attached with the Will.
18. In the case of future transfer of Immovable assets, Registered Will plays a vital role.
19. The appointment of two executors will help a lot. They are the heroes who will execute your wishes.
20. When Will is modified using Codicil, ensure that Will and Codicil are placed along.
21. Full Blood = Same Father and same Mother
Half Blood = Same Father but different Mother
Uterine Blood = Same Mother but different Father.
22. Existence of Will and its contents should be known to family members. It should be placed in a secure place known to close family members and friends. A copy of the will may be given to them. Will is not a secret document. Its knowledge will improve clarity and transparency.
23. To facilitate smooth transfer of assets, all movable and immovable assets should be in a joint name. This will save legal heirs from possible troubles.
24. If a person dies of intestate, legal heirs have to pass through long and expensive procedures to own your assets. Probate or Succession certificate has to be obtained from the Court.
25. Appointing nominee for all your movable and immovable assets will rescue your loved ones from hardships.
26. If the deceased person has a second wife, legally wedded after the first wife's divorce or death, she will also be considered a legal heir. Her children and the first wife's children will also be regarded as legal heirs of the deceased. Children born out of wedlock are also legal heirs.
27. Mere use of the word "will" cannot make it a "will" if it does not amount to a testamentary declaration of disposing of the property.
28. Every will shall be revoked by the marriage of the maker because marriage creates huge change in the testator's condition with new obligations and duties.

Other important considerations

1. Any person who commits murder or abets the murder shall be disqualified from receiving any form of inheritance from the victim.
2. Full Blood is always preferred to Half Blood. Say 1st wife died. Remarriage happened. Legal heirs from 1st

marriage are called Full Blood, whereas from the 2nd marriage is called the Half Blood. Step-children, either male or female, do not have rights to the parent's property.

3. If a person converts from Hinduism, he/she is still eligible for inheritance, but his/her descendants are disqualified for inheritance.
4. A child in the womb at the time of death of an intestate shall have the right to inherit (if the child is subsequently born alive).
5. Widow remarrying is entitled to inherit as widow.
6. No person shall be disqualified from succeeding in any property on the grounds of any disease, defect or deformity etc.
7. Daughters have equal rights by birth in co-parcenary property of a Joint Hindu Family.

Who Are Considered Legal Heirs?

1. Spouse of the deceased
2. Son of the deceased
3. Daughter of the deceased
4. Father of the deceased
5. Mother of the deceased

Essential Documents Your Family Should Know

1. Original copy of the Will.
2. Original copy of Insurance Policies.
3. Original copy of Property Documents.
4. Original copy of various documents/certificates like Birth Certificate, Marriage Certificate, Domicile Certificate, Aadhar Card, PAN Card, Passport etc.
5. Important agreements.
6. Original copy of Investment papers.

Additional Family Knowledge for Estate Management

1. Details of all Bank Accounts and Fixed Deposits.
2. Details of all Safe Deposit Lockers.
3. Details of all Demat Accounts and joint holders.
4. Details of all ATM Cards/Debit Cards/Credit Cards.
5. Details of Power of Attorney, if any.
6. Details of Debts and Liabilities (like guarantee for loan/borrowing).
7. Details of Advances/Debtors/Collectibles.
8. Details of Membership of various Benevolent Fund, Mutual Benefit Scheme, Social Security Schemes from where fund or benefit will flow post death.

Intestate Succession: When a Hindu Male Dies without the Will :

Class – I Heirs

1. **Properties of the deceased will be divided equally between :**
 - 1 Mother
 - 2 Widow
 - 3 Son/Daughter

2. **If above relationship doesn't exist or they have died, Properties of the deceased will be divided equally between :**
 - 1 Widow of Pre-Deceased Son
 - 2 Son / Daughter of Pre-Deceased Son
 - 3 Son / Daughter of Pre-Deceased Daughter
3. **If above relationship doesn't exist or they have died, Properties of the deceased will be divided equally between :**
 - 1 Son/Daughter of Pre-Deceased Son of Pre-Deceased Son
 - 2 Widow of Pre-Deceased Son of Pre-Deceased Son
4. **If above relationship doesn't exist or they have died, Properties of the deceased will be divided equally between :**
 - 1 Son of Pre-Deceased Daughter of a Pre-Deceased Daughter
 - 2 Daughter of Pre-Deceased Daughter of a Pre-Deceased Daughter
 - 3 Daughter of Pre-Deceased Son of a Pre-Deceased Daughter
 - 4 Daughter of Pre-Deceased Daughter of a Pre-Deceased Son

Class – II Heirs

1. **If any of relationship mentioned in Class – I do not exist or they have died, the property shall be distributed to following persons (in the order) fully if they are alive :**
 - 1 Father
 - 2 Son's Daughter's Son / Daughter, Brother & Sister
 - 3 Daughter's Son's Son / Daughter, Daughter's Daughters' Son/Daughter
 - 4 Brother's Son / Daughter & Sister's Son / Daughter
 - 5 Father's Parents
 - 6 Father's Widow & Brother's Widow
 - 7 Father's Brother / Sister
 - 8 Mother's Parents
 - 9 Mother's Brother / Sister

Notes on Relationship

Reference to "Brother" or "Sister" excludes reference to brother or sister by uterine blood.

Intestate Succession: When a Hindu Female Dies Without the Will :

Her property shall be distributed to following persons (in the order) fully if they are alive :

- 1 Sons and daughters (including the children of any pre-deceased son or daughter) and Husband
- 2 Heirs of the Husband
- 3 Mother and Father
- 4 Heirs of the Father
- 5 Heirs of the Mother

Note:

1. Inheritance from Parent's Side

If a Hindu female dies intestate without children or any pre-deceased children, property inherited to her from her parents, reverts to her natal family, not her husband.

2. Inheritance from Husband's Side

Conversely, property inherited from her husband or father-in-law devolves upon the heirs of her husband, respecting distinct familial sources of property under Hindu law.

Responsibilities of Legal Heirs

1. Execution of the Will, if exists.
2. Settlement of debts of the deceased.
3. Cancellation of PAN, GSTN, Profession Tax No. etc.
4. Filing Income Tax Return as per Sec. 159 of the I-T Act, 1961.
5. Transfer of assets of the deceased.
6. Claim of retirement benefits, Social Security Scheme etc.
7. Change of names in all movable & immovable properties.

Supreme Court: Nominee versus Legal Heirs

1. Case Overview :

A family dispute arose where a father, through his will, bequeathed shares and debentures to one son, leading to a disagreement with the other son who was appointed as the nominee.

2. Citation :

The SC in Shakti Yezdani & Anr. v. Jayanand Jayant Salgaonkar & Ors. (Civil Appeal No. 7107 of 2017) on 14/12/2023 clarified the legal standing of nominees concerning shares and debentures.

3. Nominee's Role Clarified

The Court confirmed that a nominee holds shares or securities not as an absolute owner but in a fiduciary capacity, acting as custodian until rightful heirs are determined, preserving the inheritance process.

4. Succession Laws Take Precedence

The Court emphasized that the rights of legal heirs under wills or Hindu Succession Act prevail over any nominee's claim.

5. Meaning of 'Vest'

The term "vest" in Companies Act provisions facilitates share transmission but doesn't confer ownership to nominees, protecting legal heirs' succession rights.

6. Purpose of Nomination

Nomination ensures smooth transfer in companies upon shareholder's death but does not create a separate succession mode or override pre-existing inheritance laws.

Real life example : I learnt after sudden death of my husband

We always believe we will live forever. Bad things always happen to others.

Only when things hit us bang on your head you realise... Life is so unpredictable....

My husband was an IT guy...all techie...And I am a chartered accountant... Awesome combination you may think...

Techie guy so everything is on his laptop...his to do list... his e-bill and his bank statements in his email... .. He even maintained a folder which said IMPWDS...wherein he stored all login id and passwords for all his online accounts...And even his laptop had a password... Techie guy so all the passwords were alpha-numeric with a special character not an easy one to crack...Office policy said passwords needed to be changed every 30 days...So every time I accessed his laptop I would realise it's a new password again... I would simply opt for asking him 'What's the latest password' instead of taking the strain to memorise it.

You may think me being a Chartered Accountant would mean everything is documented and filed properly... Alas many of my chartered accountant friends would agree that the precision we follow with our office documents and papers do not flow in to day to day home life... At office you have to be epitome of Reliability / Competent / Diligent etc but... at home front there is always a tomorrow...

One fine morning my hubby expired in a bike accident on his way home from office.... He was just 33... His laptop with all his data crashed... everything on his hard disk wiped off... No folder of IMPWDS to refer back to... His mobile with all the numbers on it was smashed... But that was just the beginning... I realised I had a lot to learn...

9 years married to one of the best human beings... with no kids... just the two of us to fall back on... but now I stood all alone and lost...

Being chartered accountant helped in more ways than one but it was not enough... I needed help... His saving bank accounts, his salary bank accounts had no nominee... On his insurance his mom was the nominee and it was almost 2 years back she had expired... but this was just a start.... I didn't know the password to his email account where all his e-bill came... I didn't know which expenses he paid by standing instructions...

His office front too was not easy... His department had changed recently... I didn't know his reporting boss name to start with... when had he last claimed his shift allowance... his mobile reimbursement...

The house we bought with all the excitement... on a loan... thought with our joint salary we could afford the EMI... when the home loans guys suggested insurance on the loan... we decided that instead of paying the premium the difference in the EMI on account of the insurance could be used to pay towards prepayment of the loan and get the tenure down... We never thought what we would do if we have to live on a single salary... So now there was huge EMI to look into...

I realised I was in for a long haul...

Road accident case... so everywhere I needed a Death certificate, FIR report, Post Mortem report... For everything there were forms running into pages... indemnity bonds... notary... surety to stand up for you... No objections certificates from your co-heirs..

I learnt other than your house, your land ... your car, your bike are also your property... So what if you are the joint owner of the flat... you don't become the owner just because your hubby is no more... So what if your hubby expired in the bike accident... and you are the nominee but if the bike is in a repairable condition ... you have to get the bike transferred in your name to claim the insurance... And that was again not easy... the bike or car cannot be transferred in your name without going through a set of legal documents... Getting a Succession Certificate is another battle all together...

Then came the time you realise now you have to start changing all the bills, assets in your name... Your gas connection, electricity meter, your own house, your car, your investments and all sundries... And then change all the nominations where your own investments are concerned... And again a start of a new set of paperwork...

To say I was shaken... my whole life had just turned upside down was an understatement... You realise you don't have time to mourn and grieve for the person with whom you spend the best years of your life... because you are busy sorting all the paper work...

I realised then how much I took life for granted... I thought being a chartered accountant I am undergoing so many difficulties... what would have happened to someone who was a house maker who wouldn't understand this legal hotchpotch...

A sweet friend then told me dear this was not an end... you have no kids... your assets will be for all who stand to claim... **after my hubby's sudden death... I realised it was time I took life more seriously... I now needed to make a Will... I would have laughed if a few months back if he had asked me to make one... But now life had taken a twist...**

Lessons learnt this hard way were meant to be shared...After all why should the people whom we love the most suffer after we are no more...Sorting some paperwork before we go will at least ease some of their grief...

1. Check all your nominations...

It's a usual practice to put a name (i.e in the first place if you have mentioned it) and royally forget about it. Most of us have named our parent as a nominee for investments, bank accounts opened before marriage. We have not changed the same even years after they are no longer there with us. Even your salary account usually has no nomination... Kindly check all your Nominations...

- Bank Accounts
- NSC
- Demat Accounts
- Investments
- Fixed Deposits
- Bank Lockers
- Insurance (Life, Bike or Car or Property)
- PF & Pension Forms

2. Passwords....

We have passwords for practically everything... Email accounts, Bank accounts, even for the laptop you use... What happens when your next in kin cannot access any of these simply because they do not know your password... **Put it down on a paper...**

3. Investments...

Every year for tax purpose we do investments... Do we maintain a excel sheet about it... If so, is it on the same laptop of which the password you had not shared... Where are those physical investments' hard copy...

4. Will...

Make a Will... I know you will smile even I would...had I not gone through all what I did... Will would have made my life lot easier...a lot less paperwork...I wouldn't had to provide an indemnity bond, get it notarised, ask surety to stand up, no objection certificates from others...

5. Liabilities...

When you take a loan say for your house or car...Check out on all the what ifs...what if I am not there tomorrow...what if I lose my job...Will the EMI still be within my range...If not get an insurance on the loan...The people left behind will not have to worry on something as basic as their own house...

My battles have just begun...But let us at least try and make few changes so that our loved ones would not suffer after we go... We do not know.....

* HEARTIEST CONGRATULATIONS! *

Team AGFTC extends warm wishes
to the newly elected team of
The Gujarat State Tax Bar Association
for the Activity Year 2025-26.

President: **Shri Narendra Karkar**
Secretary: **Shri Adv. Pankaj L. Shah**
& the dynamic team of
office bearers and committee members

UNLEASH THE POWER OF ACCOUNTING SOFTWARE & MAKE WORK EASY



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Introduction

In today's digital business environment, a good, stable and feature rich accounting software has become a necessary tool for recording financial transactions, compliance, generating insightful reports and final accounts for various reporting. If we talk about Micro, Small or medium enterprises, the entities across sectors use some form of accounting softwares to record transactions, track operations and minimize manual errors. At the heart of these systems lie three common elements: (1) Data entry interfaces, (2) a robust backend database, and (3) logic-based reporting mechanisms.

Test Case: Tally

Among many software options available in the market, Tally is one of the most preferred accounting platforms in India for small and medium sized businesses. With tagline of “Power of Simplicity” and capabilities to support various compliances, Tally has emerged as a software which provides much more than just traditional bookkeeping.

As professionals in finance, tax consulting, and auditing, we often restrict our use of Tally to basic ledger entries and standard reports. However, there is a treasure of advanced features in Tally that can significantly enhance our productivity and analytical capabilities. Knowing and using these features can help during audits, reviews, and management reporting. Moreover, these skills may open new avenues in consulting, such as business analytics, MIS reporting, and automation as a source of earning.

This article focuses on using Tally effectively to simplify and automate your workflow, backed by resources from tally solutions help.

Using Tally Features to Their Fullest Potential

Each Tally version update comes packed with enhancements. Unfortunately, we often stick to familiar workflows and ignore the newer capabilities that can drastically reduce time and effort. Here, we explore few of the most useful features in recent Tally releases:

1. Importing Bank Statements Directly

Banking entries is one of the most time-consuming, large volume and error-prone tasks. Tally addresses this by allowing direct import of bank statements.

Steps:

1. Go to **Q:Import** in the top menu bar > Select **Bank Statement** > Select Bank Ledger
2. Choose your file path and file format from supported formats and import entries.

This automation saves valuable time and energy which also minimize the chances of errors. It also reduces the requirement of manpower in case of huge number of transactions.

Note: Most banks now provide downloadable statements in compatible formats from their online portals. If not, you can just create a template in excel based on the excel / csv format of your bank and reduce time to create an import file.

2. GSTR-2B Reconciliation

With the GSTR-2B being mandatory for Input Tax Credit (ITC) and with increased focus of GST department on 2B mismatch in notices, it has become essential for businesses to reconcile their books with GSTR-2B.

Tally makes this process simple:

- Download JSON of GSTR-2B from GST Portal for a specific month
- Go to **Q:Import** in the top menu bar > select **GST Returns** & import the JSON downloaded from the portal
- Navigate to **Gateway of Tally > Display More Reports > GST RepOrts > GSTR-2B Reconciliation**, select the month and check the reconciliation.
- Mismatches are flagged for review, ensuring only valid ITC is claimed

This tool is especially useful for consultants and CAs during GST return filings.

Also, pass a proper ledger entry for inter-head adjustment of CGST, SGST & IGST ledgers each month and avoid that headache during finalization.

3. Natural Language Processing (NLP) in Tally for Quick Information Retrieval

With the introduction of Tally Prime, accessing reports and information has become easier thanks to NLP. Tally's Go To feature (Calculator) (press Ctrl + N) acts like a search engine within the software.

Instead of navigating menus, you can simply type NLP commands and get quick information. Also, for few specific information, where there is no readymade report, you can derive information using NLP.

e.g. Press Ctrl + N and write

- **Select * from ledger** and you will get entire ledger dump and which can help to understand the headers starting with \$ sign, you can use this for reference file for all NLP commands.
- **Select \$Name, \$IncomeTaxNumber from ledger** and you will get list of all ledgers and PAN numbers, if any. You can also export the data.

Similarly, you can write your queries and get desired output. Best way is to search YouTube for Tally NLP commands and learn with trial and error.

Access the list of Commands at:

https://help.tallysolutions.com/article/Tally.ERP9/SMS/Natural_Language_for_the_Business.htm

4. More things you can try:

Due to limitation of space, it is not possible to cover many advance features, but you can give a try for -

- Getting MSME status reporting
- Use various TDL / TCP
- Using ODBC Connections and Power Query to import data in Excel without exporting data and real time update capturing changes in tally
- Creating a Master Company to Compile data from separate tally companies for multiple state entities of a same company
- Using multi-currency for Import / Export based units
- Remote Access

With increased awareness and multiple sources to learn and understand, YouTube videos and ChatGPT can help with multiple solution.

How to Maximize Staff Efficiency

Training is the key.

Encourage your staff to explore, understand and adopt new features through:

- Internal training sessions by experts from inside or outside organisation
- Webinars & Seminars by Tally or Tally Partners
- Help documentation
- Trial and error with appropriate backups
- Adopting new TDL or Third-Party Integration Tools

Confident staff can manage tasks independently and reduce your review workload significantly.

The Central Idea

The idea is very simple. To have an edge in business, you need to sharpen your edge first. There is no alternative to new learning and training. If a task takes two hours and can be completed in 20 minutes, invest hours into understanding, designing processes, putting checks and balances and adopting new methods where one can permanently save 100 minutes each time! It is not magic; it is how businesses grow with the help of technology.

It's not about JUST Tally!

Other accounting or ERP platforms like Busy, Zoho Book or Marg or any other software, the foundational concepts remain the same. With database access or technical support, you can extract data, import it into Excel, and generate customized reports.

The article is written around Tally, but it is not limited to Tally. If you are using any software, contact your service provider and ask them to provide you with the knowledge base how you can connect database, create new reports and add automation through the same software provider or through third-party solutions.

Conclusion

As professionals we need to harness the hidden potential in data, ask our clients and accountants to get trained and encourage them to adopt new features without fear of making mistakes. That will improve our efficiency, and we can focus on something else.

PRACTICING OPPORTUNITIES IN THE UAE FOR INDIAN CHARTERED ACCOUNTANTS

INTRODUCTION

The United Arab Emirates (UAE) is fast emerging as a land of immense professional opportunities for Chartered Accountants (CAs) from India. With the introduction of VAT, Corporate Tax, and other compliance requirements, businesses in UAE — largely comprising expatriates — are in growing need of capable tax, audit, and advisory services. For Indian CAs looking to expand their horizons, the UAE presents a unique and dynamic market.

This article aims to guide professionals in understanding the UAE market, service offerings, and pathways to successfully establish and grow a practice.



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UNDERSTANDING THE UAE MARKET

UAE, comprising seven Emirates, is a cosmopolitan hub with a significant expatriate population, particularly from India, Asia, Europe, and the Americas. However, it offers no citizenship opportunities, meaning most professionals reside on employment or business visas ranging from 2 to 10 years.

Key points to consider:

- **Communication:** Internet costs are high, and WhatsApp calls are restricted. Network Calls and Emails are the best way of communication in UAE. BOTIM or similar apps can also be used for calls.
- **Transportation:** Metro facilities exist mainly in Dubai. Elsewhere, cabs and buses are preferred, making commuting time-consuming and costly.
- **Dual-Country Benefit:** Many expatriates seek compliance services both for UAE and their home country, providing dual engagement opportunities for consultants.

Scope of Services

Professionals can cater to a wide array of services:

Primary Services:

- Advisory services related to VAT, Corporate Tax, ESR (Economic Substance Regulations), AML, Transfer Pricing
- Compliance and Filing services for the all the aforesaid things.
- Bookkeeping
- Internal and External Audits

Dual Advantage Services:

- FEMA Reporting, ODI Advisory
- International Taxation, NRI Taxation, DTAA Advisory
- Business Structuring: Branch vs Subsidiary advisory
- Accounting staff support services from India to UAE firms
- Real estate consultancy services

Secondary Services:

- Company formation assistance
- Bank account setup
- Visa and Emirates ID assistance
- Foundation (Family office) formation

STRATEGIC APPROACHES FOR EXPANSION

Professionals can choose between two approaches:

1. Risk-Free Entry (Initial Phase):

Start by serving Indian clients wishing to set up businesses in UAE by offering them the aforesaid Secondary Services and Dual Advantage Services along with offering them the Primary services of Advisory, bookkeeping and tax compliance services from India itself. This phase demands minimal investment and risk.

2. Aggressive Expansion (Advanced Phase):

After establishing a base, professionals may consider physically relocating or setting up an office in the UAE to access local clients for compliance, auditing, and advisory services.

CUSTOMER OUTREACH AND NETWORKING

Given the competitive nature of the UAE market, aggressive digital and offline networking is crucial:

- Build a strong online presence via websites, LinkedIn, YouTube, and webinars.
- Invest in SEO, Google Ads, CRM Tools and email communications.
- Organize seminars and participate in Networking and Business exhibitions like GulFood, Vibrant Gujarat, ICAI WOFA etc.
- Leverage 'mouth of word' referrals through excellent service delivery and local presence.
- Importantly, patience and perseverance are key. Early mistakes and experiments are part of the learning curve. Try, Fail, Learn remains the mantra.

CONTINUOUS LEARNING AND COLLABORATION

Staying updated with UAE laws, regulations, and market trends is non-negotiable:

- Read ICAI and Taxmann publications.
- Attend ICAI (Dubai Chapter) events and ICAI Corporate Tax & VAT certification courses.
- Network with local experts and freezone authorities.
- Engage in knowledge-sharing collaborations instead of attempting to serve complex clients alone in the beginning.

Practical exposure through client servicing, coupled with theoretical learning, leads to gradual mastery.

CONCLUSION

The UAE presents vast professional opportunities, but success demands a strategic, persistent, and adaptive approach. Indian Chartered Accountants equipped with strong technical knowledge, digital marketing skills, and networking abilities are well-positioned to carve out a successful niche.

The journey may start modestly — servicing Indian clients remotely — but with continued learning, professional collaboration, and consistent client service excellence, it can evolve into a thriving UAE-based practice.

The future belongs to those who are ready to Try, Fail, and Learn!

નડિયાદમાં ઈન્કમ ટેક્સ-જીએસટી
સુધારા અંગેનો સેમિનાર યોજાયો


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■ **સાંઘ મુલાકાત કેરોના**
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