



**SBS** | *Interns'*  
**Digest**  
An attempt to share knowledge

By

**Interns of  
SBS and Company LLP**

## **NATIONAL CONVENTION AT AURANGABAD**



*"Technical Session on GST- Formulation & Implementation at Aurangabad National convention" - K. Bhavani.*

## **SNAPSHOTS OF LAST MONTH SATURDAY SESSIONS**



*Fixed assets requirements w.r.t CARO - P. Ashok Reddy*



*SA 299 (Responsibility of Joint Auditors) - A. Sai Ram*

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## INDIRECT TAX

### **"REFUND CLAIM OF CENVAT CREDIT IN RELATION TO INPUT SERVICES ON EXPORTS— DOCUMENTATION AND OTHER PROCEDURAL ASPECTS"**

Contributed by A.Sai Ram & Vetted by CA Manindar & CA Sri Harsha |

#### **Introduction**

In India, Excise Duty/Service Tax on export of goods/services is exempted; A simple question arises in mind that

"If export of services are exempted then what is the use of Cenvat credit lying in the books of Accounts?"

Rule 5 of Cenvat credit rules, 2004 (CCR Rules, 2004) provides an opportunity to the service provider/manufacturer to utilize the accumulated CENVAT credit relating to export of goods or services for the payment of service tax on domestic output services and excise duty on final products cleared within India and in case any credit is left after making the stated adjustments the service provider/manufacturer can opt for refund of CENVAT credit.

#### **Procedure to be followed with respect to input services in refund claim of Cenvat credit Definition of input service as per CCR Rules, 2004**

"Input service" means any service used for providing an output service or used in the production of the final product.

CENVAT credit can be taken on all the eligible input service invoices dated during the respective quarters though the services have not been received during the quarter. Credit should be reversed if the payment is not made to the vendor within 3 months from the invoice date and can be claimed subsequently in the month of the payment.

Credit is available even for advance payments also for which invoice are received, except in case where the services are not received at a later point of time.

In case of services relating to reverse charge mechanism, credit can be taken at the time of payment of service tax.

#### **Documents to be prepared with respect to input services to claim refund**

- Month wise input service statement containing the list of Input service invoices and their payment details in chronological order.
- Invoices should be serially numbered as per month wise input service statement.
- Statement providing consolidated Service-wise list of Input Invoices with Subtotals.
- Challans for service tax paid on reverse charge basis, if any.
- Bank statements as proof of payment to the vendor and the line items regarding to the payments to be highlighted and properly mapped with Input Invoices.
- Reconciliation statement between the CENVAT credit taken on input services for respective months in Service Tax return and actual claim of input services. (Lower of the two is allowed as refund).

As per recent Trade Notice. 01/2016 dated 10.08.2016 issued by Office of the Commissioner of customs, central excise and service tax: Hyderabad-IV Commissionerate, Posnett Bhavan, Hyderabad, in case of voluminous input service invoices, the assessing authority will demand the assessee to submit a Cenvat credit statement in the specified format as stated in ANNEXURE I.

Sample verification of invoice shall be done in the following manner:

- All invoices constituting 80% of the Cenvat Credit taken in the quarter shall be identified and scrutinized for their correctness
- In respect of the balance invoices, random verification of 10% of the balance invoices or 25 invoices whichever is higher, covering different vendors and sensitive nature of services.

The above selection/identification shall be done under the supervision of the Assessing authority and the selected invoices shall be highlighted in the Cenvat credit statement.

The details about the selection of invoices shall be recorded in the specified format in the note-sheet as stated in ANNEXURE II.

As per the requirement of the Assessing authority, 100% verification of invoices will be done once in a year.

### **Conclusion**

Thus following points need to be carefully addressed in refund claim

1. Ensure that the amount claimed in Form A is equal to the amount stated in respective ST return.
2. If payments are not made within three months, the CENVAT credit is to be reversed and claimed in the month of payment.
3. Reverse charge services are to be claimed after making payment of service Tax to the Government.
4. Segregation of invoices to be done as per trade notices for claiming refund.

**ANNEXURE I**

S.No	Original Sl. No as per CCR	Vendor Name	Classification of invoice	Invoice Number	Invoice Date	ST Regn Number	Invoice Amount	Cenvat credit involved	Date of payment to service provider as evident from Bank statement	No of days between invoice date and date of payment	Remarks

**ANNEXURE 2**

Name of the Refund claimant	Amount of refund claim	Amount of Cenvat credit taken in the quarter	Total number of invoices filed in the refund claimed	Total number of invoices constituting 80% of the claim amount	Total number of balance invoices selected as stated above	% of refund amount covered by the selected invoices

*"Happiness can exist only in acceptance"*

*This article is contributed by A.Sai Ram, Intern of SBS and Company LLP. The author can be reached at [interns@sbsandco.com](mailto:interns@sbsandco.com)*

## INDIRECT TAX

### AN OVERVIEW ON GST

Contributed by K.Bhavani & Vetted by CA Manindar & CA Sri Harsha |

#### Brief Introduction

GST, Entire India is eagerly waiting for its implementation. In Indirect Taxes, rolling out of GST is a major reform. Globally, most of the countries are under GST regime and now India is also going to step in to GST Net. The idea of national GST was first put forward by Kelkar Committee in 2004. Sri Chidambaram was announced the introduction of GST in his budget speech in 2006, however due to political issues, the dream to roll out GST got delayed for a decade.

Through implementation of GST, Consumers shall be benefitted through the reduction of cascading effect and tax burden. Further, for the administrators, it would be easier to collect the taxes and also our Indian products would become competitive in the global markets resulting in strengthening the economy.

#### Power to levy

The Constitution of India gives fiscal powers to the Centre and State Governments for levying the taxes and clearly various transaction elements are divided between Centre and State for levy of taxes. The Constitution (One Hundred and First Amendment) Act, 2016, through Article 246A and Article 269A of the constitution confer concurrent powers to the Union and State Government to levy and collect Goods and Service Tax on supply of goods or services

#### Amalgamation of Indirect Taxes

Goods and Service Tax has been come into picture by subsuming most of the prevailing indirect taxes at state level and central level.

- A) At the Central Level, Taxes such as Excise Duty, Service Tax, Countervailing Duty, Special Additional Duty, Additional duties of Excise and all the surcharges and cess relating to the goods and services.
- B) At the State Level, Taxes such as State VAT, Central Sales Tax, Luxury Taxes, Entry Taxes, Entertainment and Amusement Tax, Purchase Tax and all the surcharges and cess relating to the goods and services.

#### Continuation of some of the taxes

After the implementation of GST, Petroleum products are not subsumed into GST. They are continued to be subject to excise duty and other State taxes as applicable in the current regime. They will be brought into GST net from a date recommended by GST Council. Though tobacco products are brought under GST, Centre continues to have power to levy excise duties. Taxes on Alcoholic liquor for human consumption are not subsumed under GST. They are subject to State excise duties. Further Local Government bodies like Municipality, Panchayat, Regional Council and District Council will have powers to impose tax on entertainment and amusement. These taxes on entertainment and amusements will be over and above GST.

## Taxation of transaction

On every transaction of supply of goods/services, GST shall be levied except on exempted goods/services and the goods outside the preview of GST and the transactions falling below the prescribed limits

For Intrastate supply of goods and /or services, there is a concept of dual GST. **State Goods and Services Tax (SGST) and Central Goods and Services Tax (CGST)** shall be charged on the common taxable value of a particular transaction. State Government and Central Government shall have the power to levy and collect SGST and CGST respectively. GST is a destination based consumption tax. Therefore, the State where consumer is located will have the power to collect and receive the tax.

For Interstate supply of goods and/or services, **Integrated Goods and Services Tax (IGST)** shall be charged and the rate is expected to be equal to CGST and SGST. It shall be levied and administered by the central government and SGST component of IGST levied shall be apportioned by Centre to the consuming states.

Import of goods and/or services are to be considered to be interstate transaction and IGST shall be charged on such event .However, export of goods and/or services are considered as zero rated supplies and no such tax shall be levied on such exports and the related input credits are refunded.

## Taxable Event under GST

In case of Excise Law, Excise Duty shall be payable on the manufacture, in case of VAT laws, VAT shall be payable on the Sale of Goods and in case of Service Tax laws, Service Tax shall be chargeable on provision of services. However, under GST regime, Tax is payable by the taxable person on the **supply** of goods and/or services. The word **supply** attained a very noteworthy place in the GST domain, as the taxable event of supply is wide enough to cover all sought of movement of goods (sale or otherwise) and also provision of services. It is a **destination based consumption tax where upon** consumption of goods and services, the tax revenue shall accrue to the State (jurisdiction) where such consumption has taken place.

Taxable event shall be the supply of goods and/or services for a consideration in the course/furtherance of the business. Unlike existing laws, GST shall also be charged on certain transactions even though there is no element of consideration. There are some categories of supply of services and goods which shall be payable on the reverse charge basis and reverse charge applies to supplies of both goods and services. Even interstate stock transfers/branch transfers and stated free supplies come under the roof of GST.

## Taxable Person

Taxable Person means a person who is registered or liable to be registered under GST

If a person got more than one registration, either within the state or outside the state, he shall be treated as distinct person in respect of each registration. If the establishments in different states of a common person got registered under GST, they shall be treated as distinct persons.

## **Registration**

Every person whose aggregate turnover exceeding Rs 20 lakhs (Rs. 10 Lakhs in case of North eastern states including Sikkim) shall get registered under the GST law within 30 days from the date he become liable for registration. Now, there is no concept of centralised registration and Assesse having place of business in more than one state shall get the registration separately in each state. However, if assesse having more than one place of business in same state, then he can take registration for the principle place of business within that state.

## **Input Credit**

The tax paid on inputs i.e. purchases by an Assesse shall be eligible for claiming the Input Credit subject to the condition as may be prescribed.

Utilisation of Input tax credit (ITC) as follows:

1. ITC of IGST can be utilised for the payment of IGST followed by CGST and SGST
2. ITC of CGST can be utilised for the payment of CGST followed by IGST
3. ITC of SGST can be utilised for the payment of SGST followed by IGST
4. ITC of SGST cannot be utilised for the payment of CGST and vice versa

## **Composition Levy**

A registered taxable person may opt for composition levy scheme, if his aggregate turnover does not exceed Rs 50 Lakhs (Aggregate turnover shall include the aggregate value of all taxable and non-taxable supplies, exempt supplies and exports of goods and/or services and exclude taxes viz. GST)

In this scheme, the Assesse shall pay tax at a prescribed rate, but not less than one percent of the turnover during the year and for the manufacturer the rate shall not be less than two and half percent of the turnover during the year.

The scheme shall not be applicable to the following taxable persons:

1. who engaged in the provision of services
2. who deals with the goods not leviable under this Act
3. who engaged in making any inter-State outward supplies of goods;
4. who makes any supply of goods through an electronic commerce operator who is required to collect tax at source under section 56; or
5. who is a manufacturer of such goods as may be notified on the recommendation of the Council

## **Transitional Provisions**

Existing Registered VAT Dealers/Service tax assesses shall be continued as registered under GST provisions, provided if they submit some additional information. Any accumulated and utilised Cenvat and VAT credit as shown in the last return to be filed under current regime will be allowed to carried forward as opening credits under GST.

## **Goods and Services Tax Network**

**A Special Purpose Vehicle**, GSTN has been set up to cater to the needs of GST. The GSTN shall provide IT infrastructure and services to Central and State Governments, tax payers and other stakeholders for implementation of GST. GSTN is information technology network for smooth functioning of GST and facilitation of Registration and filing of Returns and also to ensure a proper mechanism for input tax credit utilisation, tax computation and other services.

### **CONCLUSION:**

The proposed GST law is vague in certain aspects viz. exemptions and rates of taxes casting doubts on reality of the Central Government chants 'One Nation— One Tax', 'Ease of doing Business'. However, to suit the current political conditions and also to compete globally, there is an urge for roll out of GST. It leads to avoiding the cascading effect of taxes and is also expected to trim the transportation and the distribution costs and thereby contributes to GDP's growth.

***Let us welcome the implementation of GST with effect from 1st April 2017 to view a new era in economic reformation of our country!!!***

*"The fragrance of flowers spreads only in the direction of the wind. But the goodness of a person spreads in all directions."*

## AUDIT

### SA 240 – AUDITOR'S RESPONSIBILITY VIS-A- VIS FRAUD

Contributed by Madhuri A & Vetted by CA Bhyrav |

#### Introduction

The auditor is responsible to obtain reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether due to fraud or error. However, due to inherent limitations of an audit, there will be an unavoidable risk that some material misstatements of the financial statements may not be detected, even though the audit is properly planned and performed in accordance with the standards.

The potential effects of inherent limitations are particularly significant in the case of misstatements resulting from fraud. The risk of not detecting a material misstatement resulting from fraud is higher than risk of not detecting one resulting from error, because fraud may involve sophisticated and carefully organized schemes designed to conceal it, such as forgery, deliberate failure to record transactions or intentional misrepresentations made to auditor.

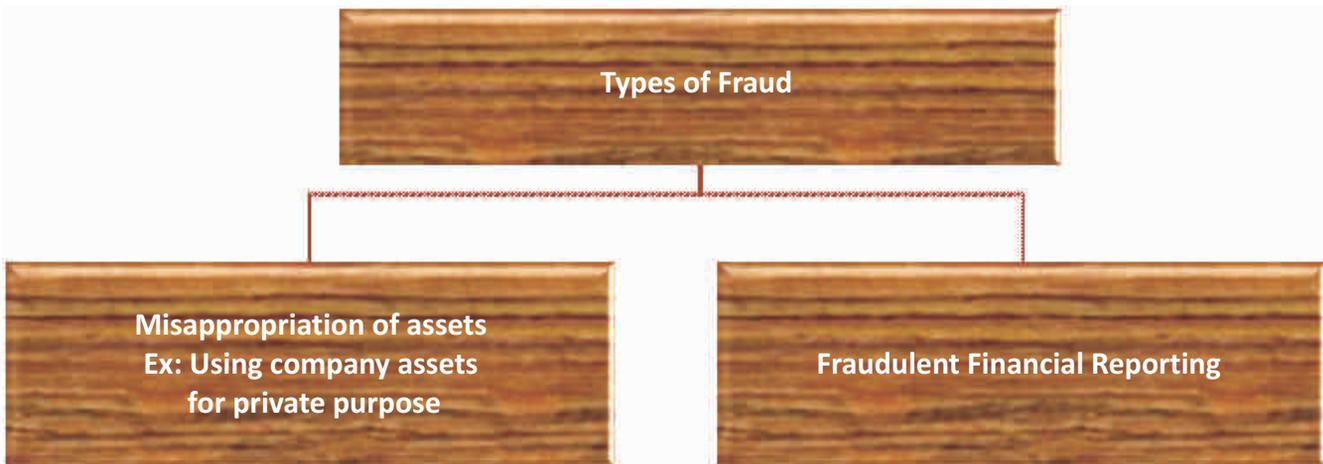
SA 240 along with SA 315 are designed to assist the auditor in identifying and assessing the risks of material misstatement due to fraud and in designing procedures to detect such misstatement.

With reference to the Fraud the objectives of the auditor are:

- ❖ To identify and assess the risks of material misstatement in the financial statement due to fraud
- ❖ To obtain sufficient appropriate audit evidence about the assessed risks of material misstatement in the financial statements due to fraud
- ❖ To respond appropriately to identified or suspected fraud

#### Related Definitions

1. **Fraud: An intentional act** done by management, those charged with governance, employees (or) third parties, using deception technique, to obtain illegal advantage over the assets of the company.
2. **Fraud Risk Factor:** Events or conditions that motivates or pressurizes to commit fraud (or) provide an opportunity to commit fraud.
3. **Those charged with Governance:** The persons or organizations with responsibility for overseeing the strategic directions of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process.
4. **Management:** Those persons with executive responsibility are termed as management.

**Types of Fraud**

- The responsibility for prevention and detection of fraud rests with those charged with Governance and management.
- Those charged with governance and management should take necessary preventive steps to prevent fraud. This requires a commitment i.e., to create honesty among employees and ethical behaviour which can be reinforced.

**Requirements from auditor by SA 240****❖ Professional Skepticism**

- The auditor is responsible for maintaining a professional skepticism throughout the audit in accordance with SA 200, recognizing the possibility that a material misstatement due to fraud could exist.
- Unless the auditor has reason to believe the contrary, he may accept records and documents as genuine.
- If he believes that the documents are not authentic or terms in the documents are modified or not disclosed to auditor, then he shall investigate further. He shall inquire with the management and if there are inconsistencies, he shall investigate the inconsistencies.

**❖ Discussion among the Engagement Team:** Auditor (Engagement Partner) shall discuss among the engagement team members, on how and where the entity's financial statements may be susceptible to material misstatement due to fraud, including how fraud might occur.

**❖ Risk Assessment Procedures and Related Activities:**

To obtain an understanding of the entity and its environment, including the entity's internal controls as required by SA 315 the auditor shall perform the following procedures to obtain information which can be used to identify the risk of material misstatement due to fraud

1. Enquiring Management and Others within the Entity: The auditor shall make inquiries of management regarding:
  - Management's assessment of the risk of material misstatement due to fraud
  - Management's process for identifying & responding to the risks of fraud in the entity
  - Management's communication, if any, to those charged with governance, and
  - Management's communication, if any, to employees regarding its views on business practices and ethical behaviour
2. Enquiring those charged with governance
  - He shall obtain an understanding of how those charged with governance supervise management's processes.
  - The auditor shall ask those charged with governance whether they have knowledge of any fraud affecting the entity.
3. Unusual or Unexpected Relationships Identified
  - The auditor shall evaluate whether unusual or unexpected relationship identified in performing analytical procedures.
  - It may indicate risks of material misstatements due to fraud
4. Other Information: The auditor shall consider whether any other information obtained by the auditor indicates risks of material misstatements due to fraud
5. Evaluation of Fraud Risks Factors
  - The auditor shall evaluate whether the information obtained, indicated that one or more fraud risk factors are present.
  - However, fraud risk factor may not necessarily indicate existence of fraud

#### ***Identification and assessment of the risk of material misstatement due to fraud***

As per SA 315, the auditor shall identify and assess the risks of material misstatement due to fraud at the financial statement level for reporting and at the assertion level for the classes of transactions, account balances and disclosures.

In case of revenue recognition area, auditor shall conduct audit based on presumption that there are risks of fraud in revenue recognition. In case the auditor concludes that the presumption is not applicable and accordingly has not identified risk of fraud, he shall document the matter.

**Conclusion:**

The auditor is required to identify the risk of material misstatement due to fraud by meeting the requirement of SA 240 and in case the auditor has identified any risk of material misstatement due to fraud, he shall respond to such assessed risk in accordance with SA 330.

Further, it shall be noted that inspite of performing duties by Auditor in accordance with all applicable standards and procedures, there will be a potential for not identifying few material misstatements which is unavoidable risk. Hence the auditor cannot give absolute assurance, just he can give a reasonable assurance.



*"A man is great by deeds, not by birth."*

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**COMPANIES ACT , 2013****RULES, CIRCULARS AND NOTIFICATIONS ISSUED DURING THE MONTH OF NOVEMBER, 2016****RULES**

- ❖ **The Investor Education and Protection Fund Authority (Recruitment, Salary and other terms and conditions of service of officers and other employees) Rules, 2016**  
Vide the said rules, the Ministry has come up with rules for the recruitment of officers and employee in IEPF authority. [http://www.mca.gov.in/Ministry/pdf/Rules\\_04112016.pdf](http://www.mca.gov.in/Ministry/pdf/Rules_04112016.pdf)
- ❖ **The Companies (Registration Offices and Fees) Second Amendment Rules, 2016**  
Vide amendment rules, the Ministry has amended the rules relating to certification of AOC 4. Accordingly, in Form AOC 4 certification can be done by the Chartered Accountant or the Company Secretary or Cost Accountant in whole time practice. Further vide the amendment rules, the fees for the allotment of DIN and surrender of DIN have also been prescribed. [http://www.mca.gov.in/Ministry/pdf/CompaniesRegistrationOffices2ndamndRules\\_08112016.pdf](http://www.mca.gov.in/Ministry/pdf/CompaniesRegistrationOffices2ndamndRules_08112016.pdf)

**NOTIFICATIONS**

- ❖ **Designation of Special Court:**  
Vide Notification Dt: 17.11.2016, the Ministry has designated the court of district and sessions Judge, Shillong as a special court for the state of Meghalaya. [http://www.mca.gov.in/Ministry/pdf/Noti\\_SplCourt\\_18112016.pdf](http://www.mca.gov.in/Ministry/pdf/Noti_SplCourt_18112016.pdf)
- ❖ **Applicability of Accounting Standards for Intangible Assets:**  
Vide Notification Dt: 17.11.2016, the Ministry has amended the applicability of Accounting Standards for the Intangible Assets. Now relevant Ind- AS shall be applicable for Intangible Assets and if the Company is not required to comply with Ind-AS, then, then accounting standards under Companies (Accounting Standards) Rules,2006 shall be applicable. [http://www.mca.gov.in/Ministry/pdf/Noti\\_18112016.pdf](http://www.mca.gov.in/Ministry/pdf/Noti_18112016.pdf)

**CIRCULAR**

- ❖ **Clarification with regard to generating the challans and filing the form with IEPF authority under Companies Act:**  
Vide Circular Dt: 05.12.2016, MCA has clarified that the it is mandatory to generate challan, through **online mode** for depositing amounts to IEPF and file form IEPF 1, mentioning the said Challan. Time till 15.12.2016, has been given for acceptance of the IEPF challans not generated on MCA-21 portal. [http://www.mca.gov.in/Ministry/pdf/GCircular\\_06122016.pdf](http://www.mca.gov.in/Ministry/pdf/GCircular_06122016.pdf)

*These updates are contributed by K. Bhavani and vetted by CS D V K Phanindra of SBS and Company LLP, Chartered Accountants. For any queries, please reach at [phanindra@sbsandco.com](mailto:phanindra@sbsandco.com)*

## INDIRECT TAX

### INDT UPDATES

#### SERVICE TAX

Service Tax Applicability on Online Database, Access or Retrieval Services— the changed Legal Position—  
Notification No:46/2016, 47/2016, 48/2016, 49/2016, 50/2016, 51/2016 –Service Tax

For Updates refer article on “Service Tax Applicability on Online Database, Access or Retrieval Services” — the changed Legal Position contributed by CA Harsha and CA Manindar in SBS Wiki(December 2016).

#### EXCISE

Relieve from excise duty on Point of sale devices and goods used for manufacturing it - Notification no : 35/2016- Central Excise

One provision is added to sub-section 1 of section 5A of Central Excise Act, 1944 stating that the excise duty on Point of sale devices such as Debit/ Credit card reader and all the goods utilised in manufacturing the same are fixed to NIL rate. This implies no excise duty has to be paid on the finished Point of sale device as well as the raw materials and the intermediate goods used for manufacturing the same due to demonetisation. However, this would be exercised only till 31st March, 2017.

Relieve from excise duty on pure gold and silver coins manufactured - Notification no: 36/2016 - Central Excise

The notification 12/2012- CE is amended by amending the serial no. 200 stating that the revised rate of excise duty applicable for articles of jewellery under the tariff heading 7114. The Gold coins or Silver coins manufactured having 99.9% purity are exempted from excise duty provided it is made from the gold or silver respectively on which excise duty / custom duty as may be applicable, is duly paid and also it bears a brand name while manufacturing

#### CUSTOM

Withdrawn CVD exemption on gold coins and bars having gold content not below 99.5%, and gold findings. - Notification No: 59/2016- Customs

The said notification has amended the original notification no. 12/2012-Custom giving exemption from Counter-vailing duty paid on gold bars and gold coins imported in India. This implies that if the gold bars (other than tola bars) having the engraved serial number are imported through water (ships) which does not include baggage then the duty has to be paid upto 10% and not 4%. Similarly, if the gold coins having minimum gold content of 99.5% are imported through ships, excluding baggage, then the rate to be charged is 10% instead of 4%.

*These updates are contributed by Priya Singh and vetted by CA Harsha Sri of SBS and Company LLP, Chartered Accountants. For any queries reach at [harsha@sbsandco.com](mailto:harsha@sbsandco.com)*

**SATURDAY SESSIONS**

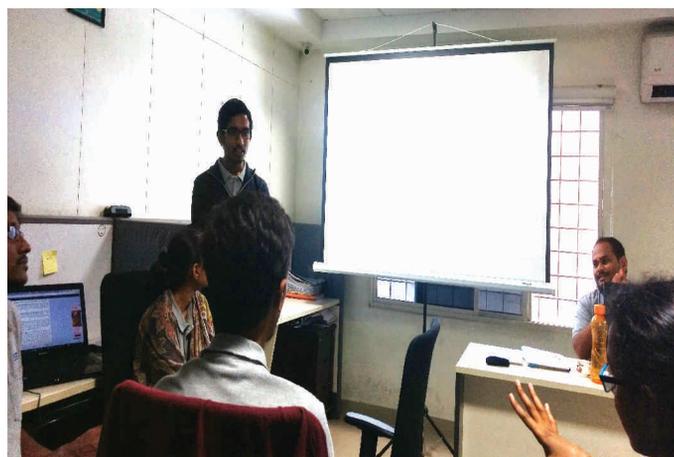
S.No.	Event	Date	Speaker	Venue
1	Filling of ODI Form (Part 1 & 2)	10/12/2016	Visweswar Rao	SBS - Hyd
2	How to read Balance Sheet - Ratio analysis	17/12/2016	Uday	SBS - Hyd
3	Section 143(2),(3),(4) of the companies Act, 2013	24/12/2016	Samatha	SBS - Hyd
4	Annual Information Return U/s 285 BA of Income Tax Act	07/01/2017	Priya	SBS - Hyd



**Section 143(1) of the companies Act, 2013**  
- Madhuri Attal



**Section 270 & 270AA of IT Act - Sameer Hussain**



**Implications of Income Tax on Unexplained income & Unexplained Expenditure - Sai Krishna**

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**Nellore:** 16-6-259, 1st Floor, Near Santi Sweets Opp: SBI ATM, Vijayamahal Centre, SPSR Nellore, Andhra Pradesh

**Tada:** 8-3-425/2, Flat No. 202, 2nd Floor, Bigsun Avenue, Near SRICITY, TADA, SPSR Nellore Dist, Andhra Pradesh

**Visakhapatnam:** # 39-20-40/6, Flat No.7, Sai Yasoda Apartments, Madhavadhara, Visakhapatnam (Urban), Vizag, Andhra Pradesh

**Bengaluru:** B104, RIRCO, Santosh Apartments, Wind Tunnel Road, Murugeshpalya, Old Airport Road, Bangalore – 560017, Karnataka.

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