



SBS *Interns'* Digest

An attempt to share knowledge

By

**Interns of
SBS and Company LLP**

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AUDIT

AUDIT OF HOUSEKEEPING DEPARTMENT

Contributed by Sravani & Vetted by CA Sandeep Das |

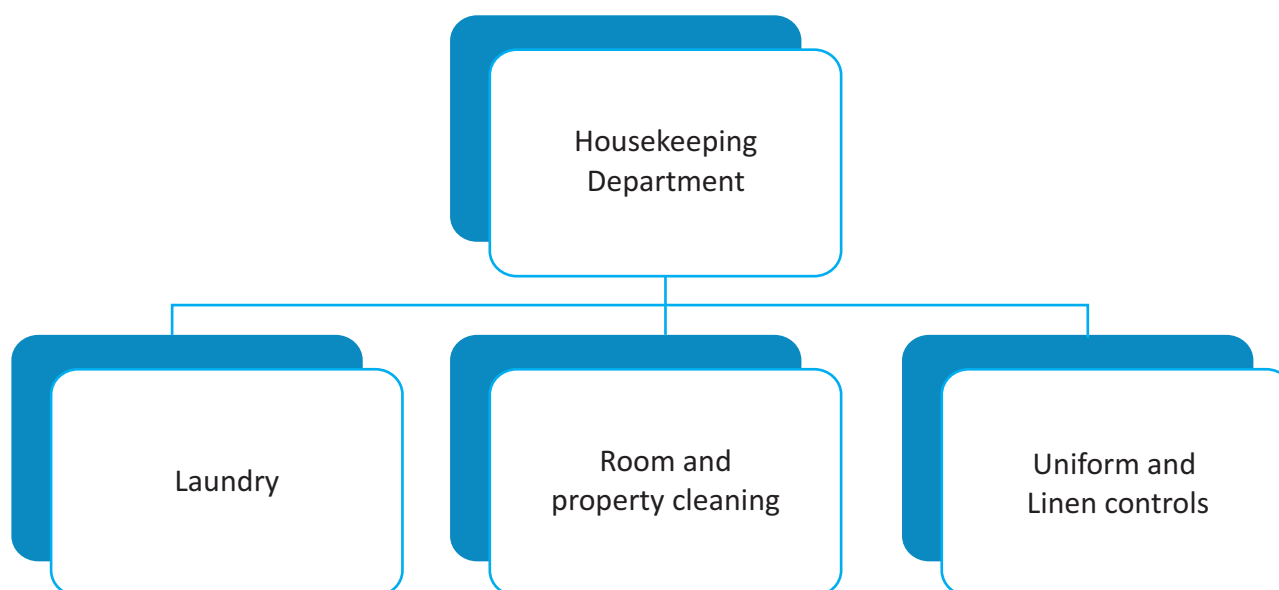
What is a Housekeeping department?

As the name suggests, this department is responsible for keeping the house, in prime and proper shape. The basic rule of Housekeeping department is to ensure the comfort of the guest in a clean, hygienic and pleasant ambiance.

This department is responsible for cleaning of guest rooms, Public areas, upkeep of the lawns and plants placed at various places, maintenance of linen and uniforms of the staff.

In this article, we will discuss how to conduct the audit of housekeeping department.

Sub-Process Under Housekeeping Department



Basic Registers Maintained by the department

- **Log Register:** It contains all the details mentioned by shift supervisors.
- **Attendance register:** Attendance of the employees working at the department are mentioned
- **Departure register:** the expected departures for the day are mentioned in this register
- **Duty register:** It is the register which contains all the details of the work done by the employees (i.e which is room is cleaned and who has supervised that)
- **Key Issue register:** It contains the record of room keys issued to staff.
- **Lost and Found register:** Contains all the lost item details of the guest.

Front office is dependant on Housekeeping department for sale of rooms. Let us discuss how to verify the general clearing process.

- Check whether the departure register is maintained and updated regularly
- Verify whether the front office duty manager passes on the guest departure list to the concerned floor supervisor.
- The chambermaid (Staff who cleans the room) cleans the rooms and after verification of supervisor the room is released. This can be checked by verifying Duty register.
- In case there is any maintenance issue the same should be intimated to the engineering department, check whether the same is backed with proper authenticated document.
- In case of issues post guest check-in, regular follow-ups are to be done with the guest to give him a comfortable stay. This can be done by verification of Log book.

Linens and Uniform – Controls and Utilization.

Linens and Uniform is one of the major part of inventory in hotel industry. Linens and fabric is important to ensure effectiveness in hotel's operations.

Without linens and fabric, a hotel cannot provide service that will lead to customer satisfaction.

Housekeeping department is responsible for proper selection of linens and using proper procedures for linens and fabric handling.

Audit checklist for uniform issue

- Verify whether the uniforms are properly placed in different shelves and the same have been labelled.
- Verify on what basis uniform is issued to the employees.
- Verify whether any register is maintained for exchange of soiled for fresh.
- Verify any register is maintained in case new uniforms are issued to existing employees.
- Verify any register is maintained when all the soiled items are sent to laundry and fresh are being received.
- Verify whether inventory taking is done periodically and the way discarding process is there.
- In case of Issuance of new uniforms to new employees check whether approval from HR department has been obtained or not.
- In case any slips/register is maintained for the same reconcile it with new employees list after obtaining it from HR.
- In case of stitching of new uniforms, the following must be verified
 - Any special approvals are needed for stitching of new uniforms
 - Whether purchase requisitions are placed for procurement of material
 - Vendor selection process for procurement of material/stitching of uniforms.

Audit checklist for Linen Issued

- Verify whether any register/slips are maintained for issue of fresh against soiled.
- Verify whether inventory taking is done periodically.
- Verify whether all the linen of different outlets is placed separately.
- Analysis is to be done on discarded linen.
- The process of discarding has to be keenly observed to check whether the discarded linen is sold or recycled.

Housekeeping Inventory

- It includes all the guest amenities, supplies and cleaning supplies.
- Verify the process of procurement and storage of the same in the department
- In case inventory is procured by placing indents comparison is to be done between quantity as per indents placed and quantity received (either mentioned in stock taking report or register being maintained)
- Check whether stock taking is done monthly and any items whose balance is nil are procured immediately.
- Verify whether the personals are having the track of the inventory handed over to chambermaids and ultimately placed in the room (i.e how much quantity is procured from stores and how much is ultimately utilized).
- Physical verification is to be done to validate the reports maintained by them.
- **Cleaning Supplies:**
 - Cleaning supplies include all those items which are used by the chambermaids to clean the rooms and premises
 - Verify the procedure of procurement of cleaning supplies.
 - Verify whether any register is maintained and updated for consumption of cleaning supplies.
 - Obtain the stock report in case the personals conduct stock verification in the month end.
 - In case the procurement of supplies is by placing indents to stores, reconciliation is to be done between stock report and the indents placed.
 - In case any chemicals are placed with the housekeeping department precautions are to be taken to see that the chemicals are properly labelled and are placed away from the ground.

Verification of Lost and Found items

Lost and found articles are those which are left by the guest in the hotel premises (Rooms/Banquet hall)

Audit Checklist:

- Check whether any register is maintained and updated regularly
- If any reports can be extracted from the software used by client extract the same. Completeness of the report is to be verified.
- Reconciliation between the report and manual register is to be done
- Storage process of lost and found items is to be known and the same is to be validated.
- Check whether the contact details of guest mentioned in the register is similar to that provided at the front office

- Check whether each guest is contacted about their item. Validation is to be done whether the guest is handed over his item (i.e check any authentication of guest is taken at the time of handing over the item).
- In case the item is claimed by any person other than guest verify the precautionary steps taken by the management before issuance.
- Verify the disposal policy of the lost and found items, the same must be validated.

Guest Feedback Analysis

- Feedback of the guest is important for any improvement.
- Check in what ways feedback is collected from the guest.
- Obtain the guest feedback registers and other feedback reports.
- Categorize the guest feedback and prepare an analysis.
- In case of any repetitive feedback verify the steps taken by management to resolve the same (i.e in case the guest is complaining about insects in the room check the pest control agreement and periodicity of conducting it).
- Check whether all the negative feedback is escalated to the housekeeping manager and the same have been resolved.

Physical Verification

- Check whether the Room is decorated and all the amenities are placed according to the SOP(Standard Operating procedure). In case there are deviations the supervisor is to be questioned about the same.
- Physical verification of linen, uniforms, other stock maintained at the department is to be done.
- In case of any deviations the same is to be reported and the reasons for the same are to be noted down
- As per the guidelines of the Ministry of tourism for classification and reclassification of hotels, all star hotels shall provide at least one room for differently abled guests and the door and bathroom width is to be such that a wheel chair can pass. All hotels coming up after 01-04-2017 should have minimum door width of 90cms for both room as well as bathroom door and in case of existing hotels the above-mentioned clause is applicable from 01-04-2023. The same is to be verified.

Laundry

Laundry is the section which takes care of the requirements of washing, pressing & dry cleaning in house itself. This section plays a major role in providing the department it's effectiveness. All the linen to be used by the department must be washed and supplied on time by laundry. The section also caters to guests and there by generates revenue for the Hotel, as well.

Functions of Laundry

- **Cleaning** of all in house linen, in coordination with Linen Room
- **Laundering** of all guest articles, as per their requests
- **Dry Cleaning** of all suitable articles or as per guest requests
- **Removing** any stains from linen items, as per the requirement
- **Maintaining** close coordination with Maintenance department for upkeep of all the machinery
- **Co-Ordinating** with Linen handling personals to ensure timely supply of fresh supply as per the requirement

Collection of Laundry from Guest

- Verify whether any register is maintained and updated after collecting the laundry from guest and returning the fresh back.
- Verify whether all the bills are prepared according to the register and posted in the system
- Verify physically whether any check is there by the personals before washing and delivering to the guest (cross check with bill)
- Check whether the clothes are segregated properly based on their colour/stains before washing.
- Check any register is maintained for entering of information of pressing the cloths.
- While delivering of laundry to the room in case there is a DND board the laundry is to be brought back and the same is being mentioned in any register
- Check whether any register is maintained for returning of laundry to the guest
- Obtain authorized price list
- Verify whether the guest is charged according to the price list, in case of any deviations the same must be noted.
- Verify whether any bills are posted by laundry personals though the laundry service is complimentary.

Laundry of House linen and uniforms

- Check whether any register is maintained and updated where soiled ones are sent from Housekeeping to laundry for washing.
- Verify whether all the fresh received from laundry are equal to the soiled sent. In case of any deviations the same are to be escalated to the management.

Conclusion

Housekeeping department is one of the key department in the hotel. The sale of rooms, guest satisfaction depends on the efficiency of this department. As it is rightly said first impression is the best impression, it is the responsibility of the housekeeping department to maintain the standards of the hotel.

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AUDIT

BACKGROUND OF ISO AND GETTING ISO CERTIFICATION

Contributed by Saikrishna & Vetted by CA Sandeep Das |

1. Introduction

ISO is an independent international standard setting body which issues standards in various areas such as manufacture, technology, agriculture, hospitality etc. ISO was formed with an objective to facilitate world trade by providing common standards between various nations.

2. Background of ISO

Formation: ISO began its journey in 1926 as the International Federation of the National Standardizing Associations (ISA). It was suspended in 1942 during World War II, but after the war ISA was approached by the United Nations Standards Coordinating Committee (UNSCC) with a proposal to form a new global standards body. Finally, ISO was formed on 23rd February 1947, headquartered at Geneva, Switzerland.

Operation: ISO operates in 161 countries with English, French and Russian as recognised languages.

The Abbreviation: ISO stands for International Organisation for Standardization (ISO). ISO is not an acronym. As ISO have three official languages, the organisation would have different acronyms (IOS in English, OIN in French) and hence the founders have decided to name it as ISO. It adopted the name ISO with reference to the Greek word "isos" meaning equal.

3. Operations at ISO

Composition: ISO was composed by representatives from various national standards organisation. The body has three membership categories:

- **Member bodies:** Member bodies (or full members) influence ISO standards development and strategy by participating and voting in ISO technical and policy meetings. Full members sell and adopt ISO International Standards nationally. (India is a member body). There are 119-member bodies.
- **Correspondent members:** Correspondent members observe the development of ISO standards and strategy by attending ISO technical and policy meetings as observers. Correspondent members can sell and adopt ISO International Standards nationally. There are 39 correspondent members.
- **Subscriber members:** Subscriber members are countries with small economies. They pay reduced membership fees. Subscriber members keep up to date on ISO's work but cannot participate in it. They do not sell or adopt ISO International Standards nationally. There are 3 subscriber members.

Financing: ISO is funded by a combination of:

- Members of the ISO pay subscription fee that meet the operational cost of the body. The subscription paid by each member is in proportion to the country's Gross National Income and trade figures.
- Costs related to specific standard development projects and technical work are borne by member bodies and business organizations that allow their experts to participate in the development process.
- Another source of income is by way of sale of standards.

4. Role of ISO in standardization

- ISO is primarily responsible for drafting standards covering everything from manufactured products and technology to food safety, agriculture and healthcare.
- Currently there are 22,041 standards, which can be purchased from the ISO members (standard setting organisations in respective country) or the ISO store.

5. How to get ISO certification

- ISO certification is provided by the external certification bodies.
- Thus, ISO cannot certify any process of the company or organisation.

6. Selection of certification body

- Evaluate various certification bodies available in the locality.
- Check if the certification body uses the relevant CASCO standard* issued by ISO.
- Check if it is accredited (authorised). Accreditation is not compulsory, and non-accreditation does not necessarily mean it is not reputable, but it does provide independent confirmation of competence. Accreditation in India is given by "National Accreditation Board for Certification Bodies"
- The list of accredited organisations can be checked in the website <http://nabcb.qci.org.in>

* CASCO standard - ISO's Committee on Conformity Assessment (CASCO) has produced a number of standards related to the certification process, which are used by certification bodies.

7. Why certification

- Certification from renowned body adds credibility to the business by demonstrating to the public that the product or service meets the standards.
- For some industries / projects, getting ISO certification is legal or contractual requirement.
- Standards help businesses increase their productivity and minimizing errors and waste.

8. Displaying the certificate

- ISO certification shall be displayed in full form.
- The wrong way – "ISO certified", "ISO Certification"
- The correct way – "ISO 9001:2015 certified" or "ISO 9001:2015 certification"

9. Using the ISO logo

- The ISO logo is a registered trademark and cannot be used by anyone outside of ISO, unless authorised.

10. Popular ISO Standards

- ISO 31000 – Risk Management
- ISO 9001 – Quality Management
- ISO/IEC 27001 – Information Security Management
- ISO 14001 – Environmental Management
- ISO 37001 – Anti-bribery management systems

11. Standard setting body in India

- Bureau of Indian Standards (BIS) is the standard setting body in India established by the Bureau of Indian Standards Act, 1986.
- BIS came into effect on 23rd December 1986.
- BIS was formerly known as Indian Standards Institution (ISI).
- The Bureau of Indian Standards Bill, 2015 was passed in Rajya Sabha on 08th March 2016 and the same has repealed the existing BIS Act, 1986 from the appointed day i.e., 12th October 2017.

12. Synopsis



- ISO will draft the standards based on the recommendations from its members.

- BIS will pay the membership fee to ISO and will subscribe to the standards from ISO.

- BIS will sale the standards to the local certification bodies.

- Organisations who seek ISO certificate shall apply for certification from local bodies.

- Local certification body shall evaluate the standards incorporated by the entity and issue ISO certificate.

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INCOME TAX**CASH CREDITS**

Contributed by Kanakaraj & Vetted by CA Ram Prasad

Introduction: -

Subject of cash credits has been a major area of litigation in taxation, Section 68 has been introduced to plug loopholes and to place certain situations beyond doubt. Before introduction of this section, the decisions were being taken by court (For eg. Even prior to introduction of sec. 68 there are a large no. of case laws present and were in favour of Assessing officer - AO). Hence section 68 was inserted in the finance act 2012 w.e.f 01.04.2013, to provide statutory recognition to a principle which had been clearly enumerated in judicial decisions.

Similarly, sections 69, 69A etc. talks about unexplained investments. The precondition to apply this section is that there must be existence of investment, expenditure etc. must be conclusively established by material on record or proper evidence available if any.

Additions under section 68 & 69 can be made to income during the previous year in which cash credit and unexplained investment respectively happened.

Section	Description
Sec. 68	Cash credits
Sec. 69	Unexplained investment
Sec. 69A	Unexplained money
Sec. 69B	Investment not fully disclosed in books
Sec. 69C	Unexplained expenditure

I. Analysis of Section 68 [Cash Credit]: -**It says that;**

- Where any sum is found credited in the books of the assessee,
- maintained during the previous year,
- for which assessee offered no explanation about the source or nature or,
- the explanation offered by the assessee is not satisfactory, then
- the sum so credited in the books of accounts may be charged/considered as income during that previous year

In case of a taxpayer being a closely held company (i.e., not being a company in which the public are substantially interested), if the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such company shall be deemed to be not satisfactory, unless:

(a) the person, being a resident in whose name such credit is recorded in the books of such company, also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer has been found to be satisfactory.

Conditions to apply section 68:-

In order to apply section 68 the following must exist: -

i) Books of accounts maintained by the assessee: -

Existence of Books of accounts is the pre-condition for applicability of this section, it simply enumerate that section can be applied to assessee who is required to maintain books of accounts. The concept can be applied to assessee say an individual who is not required to maintain the books, where the bank statement shows any unexplained credits will not form part of this section {CIT, Poona v. Bhaichand H. Gandhi 141 ITR 67 (Bom.)}. Therefore, if AO finds any unexplained transactions in the bank passbook of the assessee then same can be taxed as unexplained money under section 69A of the Act.

ii) Credit entry in the books of the accounts: -

The intention of the section is to check bogus entries which are resorted to by the assessee to raise corpus fund and the money which is being invested may not come from valid sources say, 'Black Money'.

iii) Absence of satisfactory explanation by the assessee about the nature and source of the credit: -

The section requires that the assessing officer must be satisfied that the explanation offered by the assessee is genuine. It means that proper explanation alone is not sufficient, it is required to authenticate the genuineness of the transaction.

iv) Unexplained cash credits "may" be charged to Income tax: -

This section clearly says that, assessing officer must be satisfied with explanation given by the assessee, provided that validity of genuineness has to be checked. It means the unsatisfactory explanation does not automatically result in deeming the amount credited in books result as income of the assessee.

Circumstances in which section 68 would apply: -

- credit entry is found in the books of account of the firm no distinction is made for application of section 68 even if such entry is found in a partner's account or a third party's account, and the burden then lies on the assessee firm to **prove the identity, capacity and genuineness** of such party and of the transaction relating to it.
- where there is **failure of the assessee to offer satisfactory explanation** to the Assessing Officer the same would justify the addition made by the Assessing officer treating it as income from undisclosed source
- credit entry is found in the firm's books, the **burden primarily lies on the firm** to establish that the amount was in fact given by a lender.

- The explanations offered are required to be supported by **a documentary evidence**. Failure to do so invited the deeming fiction created under this section.
- Books of accounts of partnership firm and partners are different, hence any credit entry found in the capital accounts of the partners and explanation offered by the firm is not satisfactory, the same may be **charged as income in the hands of Firm** and not in the Partners hand.
- **Cash Sales** appearing in the books of an assessee and, therefore, if the assessee offers no explanation about the nature and source of "cash sales" or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, cash sales may be deemed as unexplained incomes chargeable to tax under section 68 of the Act.
- Assessee claimed that certain amount earned from agriculture operations was exempt without giving proper basis of arriving such income the same is considered as undisclosed source.
- The responsibility of proving the source of amount credited in books of assessed lies with assessee himself. **Burden of proof and extent of onus lies with assessee.**

The confirmation so filed must indicate complete details of transactions (like mode- cash or cheque, with number date of cheque with bank details). The AO have right to demand the copy of bank account of the lender evidencing such transactions and the same needs to be filed. In case transaction is in cash then AO must demand cash flow statement of the lender, preferably containing details of opening balance and its source thereof.

Assessee is expected to establish:

- Identity of creditor
- Capacity of creditor to advance money
- Genuineness of transaction

Case laws:

Burden of proof in respect of cash credit is from "Hon. Gujarat High Court in the case of DCIT vs. Rohini Builders (2002) 256 ITR 360 (Guj)."

It was held in this case that mere identification of the source of the creditors even without evidence as to the nature of the income could justify acceptance, where the assessee has given PAN of the creditor and also shows that the amounts were received by account payee cheques.

In CIT vs. Bhan & Sons (2005) 273 ITR 206 (P & H)

It does not necessarily mean that in each and every case the onus on the part of the assessee is discharged by merely providing the PAN of the creditor.

CIT v. Nevendram Ahuja (2005) 197 CTR MP 462, 2007 290 ITR 453 MP

In relation to deposit from tenants, it is sufficient if the assessee proves the identity of the tenant and the genuineness of transaction under which the deposit is made. It will not be necessary for the assessee to prove the capacity of the tenant to make the deposit/advance.

II. Analysis of Section 69 [Unexplained Investment]: -

Where an assessee had made an investment but failed to record them in books of accounts if any, maintained by him for any source of income, the value of such investment is deemed to be income of the assessee if;

- The assessee offered no explanation about the nature and source of investment
- The explanation offered by assessee is not found satisfactory by AO

Section 69 of the Income Tax Act is a tool in the hands of the department to trace the tax evasion in connection with investments made by the assessee which are not mentioned in their books of accounts.

Points to be noted:

- The word Investment has not been defined in section 69, therefore it shall be understood in the general meaning.
- AO can ask for explanation only if investments are not recorded in books of accounts.
- Maintenance of books of accounts is only an option.
- The sum so determined under section 69 shall be chargeable to income tax during the previous year in which the investment was made.

Case laws:**Splitting of Investment**

It is possible to argue that the unexplained investment may be the deemed income of more than one financial years e.g. Bank FD of Rs.1,15,000/- is located. The assessee could say that the said FD is the result of the earlier FD of Rs.1,00,000/- (matured and renewed).

In CIT V's N Swamy Mad HC in 241 ITR 363

when there was inflated stock to avail higher credit facility from bank (only amount inflated but quantity remained same), the books of the Assessee were duly audited and no trading outside the books were detected, the addition of difference in stock value could not be made as undisclosed income.

In Rupee Finance & Management (P.) Ltd. (2008) 15 DTR 466 (Mum.) (Trib.) / (2008) 119 TTJ 643

It was held that merely because assessee purchased certain shares at value much less than market price, difference in purchase cost and market price cannot be added u/s 69.

III. Analysis of Section 69A [Unexplained Money]: -

- Where in any financial year the assessee is found to be the owner of money, bullion, jewellery or other valuable article and
- Such values is not recorded in the books of accounts, if any
- The assessee offers no explanation about the nature and source of acquisition of such valuable articles or explanation offered by him is not satisfactory in the opinion of AO
- In such case the value of the articles be added to the income of the assessee during such financial year (year in which it is found).

Mere possession of such assets:

- If assessee found to be in possession of such assets then presumption is that he is the owner of such assets
- An opportunity to be given to prove with evidence that owner is third person
- Else explanation to be given for establishing ownership of asset from disclosed sources.

Case laws:**Sukh Ram v. Asst. CIT [2006] 285 ITR 256 (Delhi)**

Possession of cash is evidence of ownership – Where cash was found in possession of assessee-politician during search and his claim that it belonged to a political party was denied by President and Treasurer of said party, addition of such cash to assessee's income was rightly sustained by tribunal.

Durga Kamal Rice Mills v. CIT[2003] 130 Taxman 553 (Cal.)

The material difference between Section 68 and 69A is that Section 68 does not require that the amount is to be owned by the Assessee. It only deals with any amount shown in the books of accounts of the assessee whereas Section 69A deals with money, etc., owned by the assessee and found in his possession.

Commissioner of Income-tax vs. Meghijibhai Popatbhai Virani 2012-LL-0830-21

Where assessee in support of certain amount received from his family members on account of sale of property, produced family settlement agreement and sale agreement, there being no defect in said agreements, amount so received by assessee could not be added to his taxable income as unexplained money.

IV. Analysis of Section 69B [Investments not fully disclosed in books]: -

- Where an assessee made an investment or is found to be the owner of any bullion, jewellery or other valuable articles.
- Where AO found that amount expended on making such investments or in acquiring such valuable articles, exceeding the amount recorded in the books of accounts maintained by assessee.

- Where Assessee offers no explanation about such excess amount, the excess amount be deemed to be the income of the assessee.

Points to note:

- Since the **investment or assets are recorded in books** of account, it is the revenue alleging that the same is not disclosed fully.
- The **onus is on the department** to prove the real value of investment or of assets.
- **Merely on fair value / market value**, provision of s.69B cannot be invoked. However, if sufficient material on record to draw inference of investing more amount than disclosed. (*AO may require the Valuation Officer to make an estimate of such value and report the same to him*).
- This section could be invoked only in cases where the assessee is **maintaining books of account** and the value of investment or other assets disclosed in books of account is less than its amount invested.

Case laws:

Smt. Amar Kumari Surana v. CIT 1997 226 ITR 344 Raj

It was held that the burden is on the revenue to prove that real investment exceeded the investment shown in account books of the assessee. Merely on the basis of fair market value no addition can be made under section 69B, but if on the basis of sufficient material on record some reasonable inference can be drawn that the assessee has invested more amount in purchase of plot than that shown in account books, then only the addition under section 69B can be made.

CIT vs. Meerut Cement Co. Pvt. Ltd (2006) 202 CTR All 506

If AO raise any doubt on the value of property constructed and value appearing in books, AO can refer the matter to valuation officer to determine the cost of construction and rely upon such report as an evidence.

Analysis of Section 69C [Unexplained expenditure]: -

- Where an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure (expenditure in the nature of revenue) (or)
- Explanation offered is not in the opinion of the AO satisfactory
- Amount covered by such expenditure or part thereof, may be deemed to be the income of the assessee for such financial year
- Further, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.

Points to note:

- Common examples of additions in this category are that of marriage expenses;
- In search action, loose papers, documents, etc. are found depicting expenses incurred outside books of account – may be for business purposes or otherwise.
- **Burden of proof lies on the Assessing Officer**
 - o by evidence on record that certain expenditure has in fact been incurred by the assessee and not by any other person
 - o expenditure MUST BE certain
 - o must find out the financial year with dates, in which such expenditure is incurred by the assessee whom he is assessing

Case laws:**The Jaipur Bench of ITAT ruling in 31 DTR 456- Nisraj Real Estate**

Unverified purchases made by assessee could not be treated as unexplained expense u/s 69C and no addition can be made thereof u/s 69C proviso there under – as once sales were made by assessee, purchases were obviously made.

CIT v. Bhagwati Developers Pvt. Ltd 2003 261 ITR 658 Cal

If from documents it appears that there was expenditure, unless its source is satisfactorily explained, the same would also be deemed to be the income of the assessee for such financial year. The question depends on the satisfactory explanation of the source.

Comparison of section 68, 69, 69A, 69B& 69C: -

Particulars	Sec. 68	Sec. 69	Sec. 69A	Sec. 69B	Sec. 69C
Chargeability	Unexplained cash credits in books	Investment made, source of which is not explained	Assessee found to be owner of money, that is not recorded in books	Investments to the extent they are undervalued in books of accounts	Expenditure where the source of
B o o k s o f accounts	Compulsory	Not compulsory as the word ' if any ' is used		Compulsory	Not compulsory
Explanation to AO	AO can ask for expl. only if sum is credited in b o o k s o f accounts	AO Can ask for expl. If investments are not recorded in books of accounts	Expl. Only when money, bullion, etc not recorded in books of accounts	Expl. Only when the actual investment value is greater than the book value.	AO can ask for source of expenditure incurred
Burden of proof	Responsibility of Assessee to explain the source	It shows that before any of these sections are invoked, the condition precedent as to existence of investment, expenditure etc must be conclusively established by material on record/evidence			
Year of taxability	During the year of cash credit	During the year in which investment made.	During the year in which assessee found to be the owner of money etc.	During the year in which investment happened.	During the year of expenditure incurred.
Rate of Tax	-Separate disclosure given-				

Rate of income tax to be charged:-

S No.	Particulars	AY 18-19	From AY 19-20 onwards
1	Income tax	60.00%	60.00%
2	Surcharge @ 25%	15.00%	15.00%
3	Edd. Cess @ 3% (applicable on Tax and surcharge)	02.25%	-
4	Health and Edd. Cess @ 4% (applicable on Tax and surcharge)	-	03.00%
Effective rate of Tax		77.25%	78.00%

Note: -

- 1) Section 115BBE specified the rate of tax to be charged on the income chargeable under section 68, 69, 69A, 69B, 69C & 69D.
- 2) Declaration of undisclosed income or assets should have been chargeable to tax for any assessment year prior to the AY 2017-18 is at 30% subject to surcharge at 15% and cess @ 3% effective rate be 38.625%

Penalty [Sec 270A & 271AAC]

- Section 270A-Where under reporting of income is in consequence of any misreporting thereof by any person, the penalty would be 200% of amount of tax payable on under reported income.
- Section 271AAC-Where the income determined includes any income referred to in section 68, 69, 69A, 69B, 69C and 69D, the assessee is liable to pay penalty @ 10% on tax payable under section 115BBE.

S No.	Particulars	AY 18-19	From AY 19-20 onwards
1	Effective rate of tax (as cal. above)	77.25%	78.00%
2	Penalty u/s 271AAC @ 10%	06.00%	06.00%
3	Total Tax + Interest	83.25%	84.00%

Note: -

- 3) The applicable penalty on the income voluntarily disclosed as per note 2 give above would be at the rate of 25% of the tax as calculated in the Note 2 above. Hence the effective rate be 45%.

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GST

GOODS TRANSPORT AGENCY

Contributed by Divyasree S & Vetted by CA Manindar & CA Harsha |

INTRODUCTION:

Transportation service is one of the most critical aspects, that effects our economy as this service is ancillary to all the sectors including manufacturing, agriculture. Any change in taxation of this sector, that effects the transportation costs will have a wide impact on the prices of the goods and services required by common man. Under Service tax regime, services provided by GTA are subjected to tax under reverse charge basis. Now we will see taxability and other aspects under GST for transportation services by way of road.

TRANSPORTATION BY WAY OF ROAD:

In accordance with the Notification No 12/2017-Central Tax(Rate), **all the services by way of transportation through road are exempt from GST, except the services provided by a GOODS TRANSPORT AGENCY (GTA) and COURIER AGENCY.** Therefore, GST is applicable on a transporter who comes within the meaning of either GTA or Courier Agency.

GOODS TRANSPORT AGENCY:

As per Notification No. 11/2017 – Central Tax (Rate) dated 28th June 2017 - “GTA means **any person** providing the service of Transportation of Goods by road **issuing a Consignment Note.**”The phrase ‘Consignment Note’ is nowhere defined under GST related Acts. It was defined earlier under Explanation to Rule 4B of Service Tax Rules, 1994. Since Service tax is subsumed into GST we can consider the definition of Consignment Note define under Service Tax.

Accordingly, Consignment Note is nothing, but a document issued by the person providing the Service of Transportation of Goods containing the details of the Goods being transported, name of the consignor and Consignee, registration number of the Goods carriage, serially numbered, place of origin and destination, person liable for payment of tax whether the Consignee, consignor or the Goods transport Agency.

The issue of the Consignment Note indicates that the liability to transport and safe delivery of the consignment is in the hands of the transporter i.e. the lien on the goods is transferred into the hands of the Transporter until their safe delivery.

Without the issue of the Consignment Note and services of mere transportation of the goods in a motor vehicle ,by the service provider will not come with in the ambit of GTA service.

The issue of consignment note by GTA depends upon the requirements of service by the service receiver, type of goods being transported, the following are the circumstances which will decide whether consignment note is required to be issued or not:

- Where the service involves not only mere transportation of goods.
- Takes the goods into his custody and stores the goods until the commencement of their transportation.
- Held to be responsible for their safe delivery to the place of destination. Here the customers are not concerned about the nature of vehicle being used for transportation. They expect safe custody and transportation from the supplier of service.
- In case of transportation services other than that of GTA, normally the service recipients will take the vehicle on hire basis for transportation. The service provider being truck operator does not take any lien on goods and does not give guarantee for safe delivery.

Example 1:

Mr X purchased goods from Mr Y in Gujarat, X has place of business in Maharashtra, for the purpose carrying the goods from Gujarat to Maharashtra, Mr X hired a vehicle and here the responsibility of transporter is limited to provide the vehicle on hire to Mr X and there is no issue of any consignment note. In this case transporter is not covered under the GTA.

Example 2:

Mr P is a Jewellery merchant having registered place in Hyderabad, he purchased Gold in Karnataka. P engaged a transporter for carrying the purchase to Hyderabad. Here P's requirement is not merely obtaining a vehicle for hire, for carrying the purchase to his place of business. He expects safe delivery of Gold to his place i.e. transfers the responsibility along with the possession of the Goods by receiving a document indicating that the liability for safe transport of goods is transferred to the Transporter, which is nothing but a consignment note. In this case, the Transporter is said to have provided GTA services.

Ultratech Cement vs Commissioner of Central Excise, Kolhapur(2017-TIOL-2714-CESTAT-MUM) where the Appellant is engaged in the business of manufacturing of Cement for which the required raw material Clinker is supplied by Transporters to the premises of factory, for which the Appellant were issued a work order stating that it is the responsibility of the Transporters until the goods are unloaded at the factory premises. For which, a notice was issued alleging that the service received will be covered under GTA service considering the work order as consignment note and the Appellant is required to pay service tax along with interest and penalty. Rule 4A of erstwhile Service Tax Rules, 1994, specifies the particulars to be contained in a consignment note issued. The interpretation placed by the lower authorities is that any document by whatever name, needs to be considered as a consignment note is misplaced and in the present case the transporting companies has only issued Invoices for supply of Clinker as per the contract. The judgement of the present case was drawn from the identical issue in case of **NandganjSihori Sugar Co. Ltd Vs CCE, Lucknow (2014-34-STR-850-TRI-Del)** wherein it was held by the tribunal after analysing the provisions of GTA under Finance Act, 1994, GTA means a commercial concern which provides service in relation to transport of goods by issue of consignment note. Service tax has been demanded from appellant as a service receiver on the basis of payments made by them against the bills and where no consignment note has been issued as per explanation to Rule 4B of Service Tax Rules, 1994 and the bills raised cannot be treated as consignment note as they do not represent the liability to transport the consignment handed over to it to the destination and deliver the same to the consignee and hence the transporter is not covered under GTA. In view of these reasons, M/s Nandganj do not have any service tax liability. The tribunal has considered the same view in Ultra Tech Cement Ltd after analysing the facts and legal position and concluded that there would be no Service Tax liability and the Impugned order is set aside and the appeal is allowed.

TAXABILITY OF GTA SERVICE UNDER GST:

We can understand the Taxability of Service provided by Goods Transport Agency by obtaining answers to the following.

- 1 What is the Rate of Tax and value of supply to determine the Tax Liability?
- 2 What is the place of Supply?
- 3 Who is the Taxable Person in case of GTA?
- 4 When the Supply of GTA Service should be made Taxable?

1 What is the Rate of Tax and Value of Supply to determine the Tax Liability?

Rate of Tax is Zero and there is no requirement to pay tax in case of -
Services provided by GTA by way of carrying the following items –

- Agricultural produce
- Milk, salt and food grain including flour, pulses and rice
- Organic manure
- Newspaper or magazines registered with the Registrar of Newspapers
- Relief materials meant for victims of natural or man-made disasters
- Defence or military equipment
- Goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage is less than Rs. 1,500/-

Example:

Ajay hired a GTA to transport his goods. The consideration charged was Rs. 1,200. Will Ajay pay GST?

Ajay will not pay GST under RCM as the consideration for transportation of goods on a consignment transported in a single carriage is less than Rs. 1,500.

- Goods, where consideration charged for transportation of all such goods for a single consignee does not exceed Rs. 750/-

Example:

Vinod hired a GTA to transport goods. The GTA was asked to come 2 days as Vinod would receive the goods in batches. The entire consideration was Rs. 600. Will Vinod pay GST?

Vinod will not pay GST because the consideration charged for transportation of all such goods for a single consignee does not exceed Rs. 750/-.

Rate of tax in other cases:

Rate of Tax opted by GTA	Condition
12%	No restriction relating to availing of Input tax credit.
5%	Input tax credit cannot be availed for discharging the output tax liability by GTA.

- Value of service:**

Value of the service shall be determined in accordance with the **provisions specified in section 15** of the CGST Act, 2017. The value of supply shall also **include the charges collected for providing ancillary services** like loading and unloading, packing and unpacking and temporary warehousing etc. in addition to actual transportation of goods.

If the **ancillary services are provided as an independent activity**, then the value relating to such service **should not be included in the taxable value** determined for GTA service.

Example:

Navata Road Transport(GTA) has provided service of transportation of Goods to a Motor Vehicle manufacturing company registered under respective Factories Act to transport 250 Motor Vehicles to dealers. Here Navata is a GTA and it is held to be responsible for the goods until safe delivery to the respective dealer, now whole of the consignment of 250 Motor vehicles cannot be transported at a time in a single conveyance. So, it warehouses the goods till their transportation. Here the service of warehousing of vehicles is provided as an ancillary and not as an independent Service. So, the charges whatever collected for warehousing also should be included in the Value of service for determining the taxable value.

2 What is the place of Supply?

Determination of Place of Supply depends upon whether the service recipient is registered or other than registered person.

Recipient if -	Place of Supply U/S 12(8) of IGST Act, 2017 shall be -
Registered under GST Act	Location of the recipient
Not Registered under GST Act	Location at which goods are handed over for their transportation.

Example:

Mr A is a registered dealer in goods, having registered place of business in Chennai, Mr A purchased goods in Mumbai and handed over the goods to the transporter, to deliver them in Hyderabad. According to section 12(8) of IGST Act, 2017 the place of supply shall be the registered place of business of A which is Chennai. If, in case A is not registered then the place of supply shall be Mumbai where the goods are handed over for their transportation.

3 Who is the Taxable Person in case of GTA?

Taxable Person is the Person who has obtained Registration as per the Sections 22 and 24 of the CGST Act 2017.

Generally, the taxable person shall be the Supplier of the service or goods but **section 9(3)** of the CGST Act, 2017 through notification no.13/2017 of Central tax, **specified certain services for which recipient of service is held as the taxable person** and liable to comply with all the applicable provisions of the Act. **One among the services notified is, the service provided by the Goods Transport Agency.**

In case where a **GTA has opted to pay GST at 12%** by availing corresponding input tax credit, then the **recipient of the said service is not required to pay tax** under reverse charge basis. In such situation, the Goods Transport Agency is required to charge GST at 12% and pay the same to Government.

In case where the transportation of Goods by road is undertaken by a **GTA who has not opted to pay GST at 12%** and the Recipient of Service is any of the persons mentioned below, in such a case, the **recipient of the service will be the taxable person** and liable to pay tax at the rate of 5% under reverse charge basis. In this case, the GTA supplying the transportation services is not required to pay any GST.

Recipient of the Service Notified for Reverse Charge:

- Any Factory registered under or governed by the Factories act 1948; or
- Any Society registered under the Societies Registration Act, 1860 or any other law for the time being in force in any part of India; or
- Any Cooperative Society established by or under any law; or
- Any person registered under the Central Goods and Service tax Act or State Goods and Service Tax Act or Union Territory Goods and Service Tax Act or the Integrated Goods and Service Tax Act; or
- Any partnership firm whether registered or not under any law including association of persons; or
- Any Body Corporate established by or under any law including Association of persons; or
- Any casual taxable person located in the taxable territory.

Example:

M/s ABC solutions is a Private Limited Company having turnover less than 20 lakhs (as per Section 22(1) of CGST Act, 2017 it is not required to obtain registration under GST). It has obtained GTA service. Here M/s ABC being a notified person as mentioned above. So he is liable to pay tax under reverse charge and required obtain registration under GST as per Section 24(III) of CGST Act, 2017 even his turnover is less than 20 Lakhs notwithstanding anything contained under Section 22(1) of CGST Act, 2017.

Example:

Mr. T is an Individual not registered under GST Act in this case Mr. T is not covered under the list of notified persons mentioned above and he is not required to pay tax under reverse charge if he receives any service from GTA.

As per Notification No. 13/2017- central Tax - **Recipient of Service** shall be the person who is in the **taxable territory and liable to pay freight** for the transportation of goods by road in a goods carriage.

Example:

Mr P (consignor) having place of business in Mumbai registered under GST is required to supply goods to its customer (consignee) located in Delhi. Mr P has paid the freight charges for the transportation. In this case, Mr P is the recipient of service and he will be liable to pay tax under Reverse charge.

The person paying tax under reverse charge has to issue an Invoice under section 31(2)(f) of CGST Act, 2017 on the date of receipt of goods and shall issue a payment voucher as per Section 31(2)(g) of CGST Act, 2017 at the time of making payment to the supplier.

If **GTA opts to pay tax under forward charge basis** even for the supplies made to notified persons mentioned above. Then he is required to obtain registration subjected to the limit of aggregate turnover. In such situation, the **recipient of services is not required to pay any GST under reverse charge**.

In case GTA opts to pay tax at rate of **12%** there is **no restriction** with respect to **eligibility of input Tax credit**.

In case GTA opts to pay tax at rate of **5%** then he is **not allowed to discharge his output tax liability using Input Tax credit**. Further, as stated above, with respect to supplies to notified persons, the said persons are required to pay tax at the rate of 5% under reverse charge.

Irrespective of the rate at which tax is being paid by GTA, the recipient of service of GTA is eligible to avail the Input tax Credit upon obtaining GTA service i.e. either at 5% or at 12% as the case may be.

As per Notification No. 5/2017- Central Tax dated 19/06/2017, a person who is engaged in making **only supplies of taxable goods/services on which reverse charge applies is exempted from obtaining registration** under GST. Thus, GTA is not required to obtain registration if, he is solely engaged in transporting goods where the total tax is required to be paid by the recipient under reverse charge basis (even if the turnover exceeds 20 lakhs).

Situation	Supplies Made To	Turnover	Taxable Person is	Registration
1.	Notified Persons as mentioned above	15 Lakhs	Notified Persons under Reverse charge	A g g r e g a t e Turnover is less than 20Lakhs. GTA is not required to take registration
	Others	3 Lakhs	G T A s i n c e Recipient is Unregistered	
2.	Notified Persons as mentioned above	19 Lakhs	Notified Persons under Reverse charge	A g g r e g a t e Turnover is more than 20 Lakhs. GTA is required to take registration
	Others	3 Lakhs	G T A s i n c e Recipient is Unregistered	
3.	Notified Persons as mentioned above	23 Lakhs	Notified Persons under Reverse charge	A g g r e g a t e Turnover is more than 20Lakhs. GTA not required to obtain registration (Notification No 5/201 Central tax)
	Others	-	-	

Determining whether GTA is liable to obtain registration.

(Note: In case where a GTA opts to pay GST at the rate of 12% by availing ITC, then he is required to obtain registration irrespective of his turnover)

4 When the Supply of GTA Service should be made Taxable?

In case where recipient of service of GTA is the taxable person (Tax being paid under reverse charge basis) then the time of taxability should be determined as per the provisions of Section 13(3) of the CGST Act, 2017 as follows:

The time of supply shall be the earlier of the following dates, namely:

- The date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- The date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply

In case where GTA is the taxable person (Tax being paid under forward charge basis) then the time of taxability should be determined as per the provisions of section 13(2) of CGST Act, 2017.

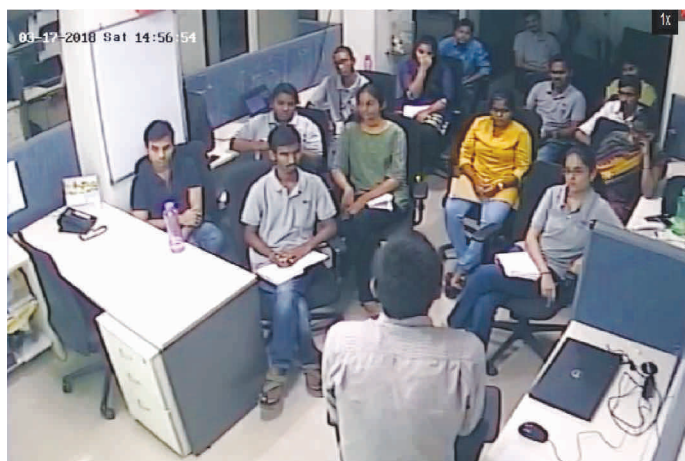
The time of supply of services shall be the earliest of the following dates, namely:

- a) The date of issue of invoice (issued as per section 31(2) of the CGST Act, 2017) by the supplier, if or the date of receipt of payment, whichever is earlier; or
- b) The date of provision of service, if the invoice is not issued as per section 31(2) of the CGST Act, 2017 or the date of receipt of payment, whichever is earlier; or
- c) The date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply.

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SATURDAY SESSIONS

S.No.	Event	Date	Speaker	Venue
1	Condonation of delay scheme 2018	10/03/2018	Arun	SBS - Hyd
2	Lower/No deduction of TDS under Income Tax Act, 1961		Harini	SBS - Hyd
3	Risk Assessment Procedures	17/03/2018	Chandra shekar. G	SBS - Hyd
4	Section 44ADA of Income tax Act 1961		Murali	SBS - Hyd
5	National Financial Reporting Authority	24/03/2018	Arun	SBS - Hyd
6	Transition to IND AS		Chandra shekar. G	SBS - Hyd
7	Blocked credits under GST	31/03/2018	Sukanya	SBS - Hyd
8	Swapping of Shares between Indian & Foreign Entities		Visweswara Rao	SBS - Hyd
9	Advance Tax under Income Tax Act, 1961	07/04/2018	Varun	SBS - Hyd
10	Insolvency and bankruptcy code 2016 -Highlights and Amendments		Sai Laasya	SBS - Hyd

SESSIONTIMINGS: 2:30 to 4:30 PM**Condonation of delay scheme 2018 - Arun****Lower No deduction of TDS under Income Tax Act - Harini****Risk Assessment Procedures - Chandra shekar. G****Section 44ADA of Income tax Act 1961 - Murali**



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