

# NEWSLETTER

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## Preface

It is our pleasure to present the latest edition of the ICAI newsletter. This newsletter is designed to keep our members up-to-date on the latest news, developments, and events within the Institute of Chartered Accountants of India.

In this newsletter, you will find a range of articles, news items, and updates from various departments and committees within ICAI. We have endeavored to provide a diverse range of content that will be of interest and relevance to our members, including updates on professional standards, regulatory changes, and the latest trends and best practices in the field of accountancy. We hope that this newsletter will serve as a valuable resource for our members and help them to stay informed and engaged with the activities and initiatives of ICAI. We welcome feedback from our members and would be happy to hear from you if you have any suggestions or ideas for future editions of the newsletter.

Thank you for your continued support and participation in the Institute's activities.

## Newsletter Editor



CA Neha Bafna



CA Pranay Bafna

## What's Inside?

1. Chairperson's Message
2. Importance of digitalization in will
3. Natural Justice and GST Adjudication
4. Know your Ethics
5. Past Events



**TORCH BEARERS**



**CA. Aniket Talati**  
President ICAI



**CA. Ranjeet Agarwal**  
Vice President ICAI

**AKOLA BRANCH NOMINEE**



**CA Sourabh Ajmera**

**MANAGING COMMITTEE AKOLA 2023-2024**



**CA Seema Baheti**  
Chairperson



**CA PANKAJ LADNIYA**  
Vice - chairperson



**CA SUMIT ALIMCHANDANI**  
SECRETARY



**CA BHUSHAN JAZOO**  
TREASURER



**CA NAVIN KRIPLANI**  
EXECUTIVE MEMBER



**CA HIREN JOGI**  
IMMEDIATE PAST CHAIRMAN



**“You will either step forward into growth,  
or you will step back into safety”**



**CA SEEMA BAHETI**  
CHAIRPERSON

## Message From Chairperson

Dear Members,

I hope this message finds you in good health and high spirits. As we embark upon the month of October, I would like to extend my warm greetings and convey some significant updates from the Institute of Chartered Accountants of India (ICAI) Akola.

The upcoming month is one more busy month for Chartered Accountants, and ICAI Akola remains steadfast in its commitment to providing valuable opportunities for your professional development. We have an array of webinars, seminars, and workshops lined up, all designed to enrich your knowledge and refine your skills in various facets of accounting, finance, and taxation. I encourage you to make the most of these resources to stay updated and enhance your expertise.

Together, we can continue to elevate our profession and make meaningful contributions to the growth and prosperity of our region.

Should you have any suggestions, concerns, or innovative ideas to share,



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please do share. Your input is valuable to us.

Wishing you a productive and successful October!

Sincere Regards,  
CA Seema Jalaj Baheti  
Chairperson, Akola Branch



## Importance of Digitalisation in Will



CA GANESH ATAL,  
AMRAVATI

In new era application of Digitalisation / electronic media play's an important role in will also. Digitalisation could not be defined in inclusive manner it includes social media and such other electronic platforms which are used in our day to day Now a days digitalization/electronic platform has immense importance in our day-to-day activities. So, it is one of the important parts of the will also. Every individual is linked to various social Medias and electronic platforms. His/her mobile number and email id are also linked to various social media's and platform's.

It is well known that will is important for each & every individual. It is also said that will is prepared by the individual with strong financial ground, but in present scenario each & every individual should prepare the will because he is related to Financial & Electronic platforms. In present situation Will is one of the document which is prepared by an individual for distribution of his /her properties. i.e. Financial Aspects only. But with digitalisation whatever may be the financial ground it always help the legal heirs & others to achieve the actual intention of an individual. Financial aspects should not be only limited object of the will in new era.

Generally it is not known that how many Mail ID's have been created/generated by each individual so it is important that individual should provide details of all the mail IDs' created/ generated by him in his will this will facilitate the legal heirs about the various mails of the demise person.

Along with this an individual should also provide various social media's and



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electronic platform where he has registered himself and use of the mail ID and mobile number for the said registration, this will facilitate the legal heirs to delete or modified post demise of an individual and also protect the family from any misuse or mis-application of the social media/ electronic platforms.

In view of above & in benefit of family & legal heirs each & every person Should provide the Email Ids/ mobile numbers / registration on social media's and electronic platform in their will along with financial matter.

“Jai Hind”



# Natural Justice and GST Adjudication

CA ADITYA KHANDELWAL

Birth of Goods and Services Tax has been the biggest tax reform in India. Ideology of One Nation One Tax has given rise to the merger of several Central and State Taxes across the country. Various concepts of law practices prevailing in the erstwhile tax regime in the different Central and State indirect tax laws have been incorporated into GST laws. One such concept adopted in GST laws is the process of determination of tax liability by way of process of 'Adjudication'. While the process of Adjudication was alien in most of the State VAT laws which use to follow the process of Assessment of tax, it does find its roots in the erstwhile Service Tax and Excise laws.

**Assessment and Adjudication:** While the term 'assessment' has been defined in the GST laws, the term adjudication as such is not so defined. Section 2(11) has defined 'assessment' to mean determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment. Whereas the term 'adjudication' by its generally adopted meaning refer to the legal process of resolving a dispute or deciding a case by giving a formal judgement. With reference to the tax laws, assessment can be regarded as the process of ascertainment or estimation of liability based upon certain facts and documents available on record with the tax-payer; either by the tax-payer himself or by the department or both. There are independent assessments done by the tax-payer and the department and the outcome of which may result into determination of tax liability that can be same or different. In the GST laws, where outcome of assessment of tax-liability is different by the tax-payer and by the departmental officer, the tax-liability has to be determined by way of Adjudication process.

Therefore, it can be construed that adjudication is the process by which the dispute between the assessment of tax liability determined by the tax-payer and that by the department is settled.

Adjudication under GST laws:

Section 73 and Section 74 of the CGST Act, 2017 provides for the process of



adjudication. Both these sections do not specifically use the word 'adjudication' as the process for determination of tax liability. However, sub-section (1) of both these sections provides that where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized then such proper officer shall issue a notice requiring the tax-payer to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the CGST/SOST Act. Thus, it can be construed that the proper officer cannot proceed with determination of liability unless the process of adjudication by way of issuing a show-cause notice and giving opportunity of being heard is given to the tax-payer. Further, Section 75(8) specifically mentions that the proceeding under Section 73 and Section 74 is an adjudication proceeding.

#### Fairness and Equity in Adjudication:

It is a settled position of law that the adjudication proceedings are quasi-judicial proceedings and the authority conducting the adjudication proceedings are the quasi-judicial authority.

Quasi-judicial proceeding refers to a proceeding conducted by an administrative or executive official or an organization that is similar to a court proceeding. However, a court may review a decision arising from a quasi-judicial proceeding. Quasi-judicial can also refer to a judicial act performed by an official who is either not a judge or not acting in his or her capacity as a judge. Once it is clear that the process of determination of tax under GST laws is an adjudication proceeding, the "Principles of Natural Justice" shall be applicable to such quasi-judicial proceedings. The Apex Court of the country has settled the controversy around the principles of natural justice time and again and it is a settled law that the principles of natural justice are inherent and imbibed in a provision of law, whether or not it is specifically stated in the law itself. The principles of natural justice are imbibed in Article 14 of the Constitution of India and adherence to the same is the fundamental right.

The basic Principles of Natural Justice are formed by three rules i.e (a) Rule against bias (b) the Right to fair hearing and (c) rule of reasoned decision. The Section 75 of the CGST/SGST Act has embodied therein the principles of natural justice with respect to opportunity of personal hearing and reasoned judgement. However, the first and foremost Principle of Natural Justice i.e. Rule against bias is not provided for



specifically in the GST laws with respect to adjudication.

In this article, we intend to discuss the principles of natural justice with respect to 'rule against bias and right to fair hearing' to be adhered to by the adjudicating authority while adjudicating the cases under Section 73 and Section 74 of the CGST/SGST Act as a quasi-judicial authority. Let us discuss the first and foremost rule of basic principles of natural justice i.e the Rule against bias. This rule is based on the principle of Nemo Judex in causa sua or Nemo debet esse judex in propria causa which means that that no man shall be a judge in his own case.

This rule stipulates that the person who is involved in decision making shall be impartial and unbiased in a way that he must not have any personal interest in the subjected issue and he must not be influenced by any external factor while making the decision. The biases may broadly be categorized into three types i.e Pecuniary bias, personal bias and bias as to subject matter. Pecuniary bias arises where the adjudicator himself has economic interest in the subject matter. While personal bias arises where the adjudicator has personal, business or professional relation with the parties in dispute. Whereas the bias as to subject matter arises when the adjudicator has any interest or prejudice with respect to the subject matter. That is to say that where the adjudicating authority intimately identifies itself with the issues in dispute, it shall be the case of 'bias as to subject matter'.

In light of the above, one may raise a question as to whether the proper officer who has performed scrutiny of return u/s 65 of the CGST/SGST Act or as conducted Audit u/s 65 of the said Act/s or has conducted inspection, search or seizure under the provisions of section 67 of the said Act/s is fit to adjudicate the very same case under Section 73 or Section 74 of the CGST/SGST Act?

It is to be noted that the 'proper officer' has been defined in Section 2(91) of the CGST Act, 2017 which states that "proper officer in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board.". Similar provisions are contained in the corresponding SGST Acts. It is worthwhile to note that where the specific functions are not assigned to the proper officer, whether such officer can perform all the functions contained in Section 61, Section 65 or Section 67 alongwith functions under Section 73 or Section 74? Also, where functions are assigned by the Commissioner, can the functions as mentioned above be performed by a single officer? Putting in simple words, whether the officer who has determined the liability under Section 61 or Section 65 or Section 67 can adjudicate the same under Section



73 or Section 74? If this is so, no decision can be said to be free from bias as the same would lead to bias as to subject matter.

Hon'ble Apex Court in case of Gullampally Nageswara Rao Vs. Andhra Pradesh State Road Transportation Corporation and An AIR 1959 SC 308 had dealt with the case of Nationalization of Motor Transport where the objections against such Nationalization of Motor Transport were heard by the Secretary to the Government who had himself ordered such nationalization and upheld the validity of such scheme. The Hon'ble Court observed that action of such Government Secretary are invalid. Similar view was taken by the Hon'ble Apex Court in case of K. Chelliah v. Chairman, Industrial Finance Corporation AIR 1973 Mad. 122 where the disciplinary action against an employee was taken by the chairman of the corporation. Though, there was a statutory provision for the appeal against the chairman to the board of directors, the chairman himself was the member of the board of directors. Also the Supreme Court in the famous case of Ashok Kumar Yadav And Ors. Etc. Etc vs State Of Haryana And Ors. 1987 AIR 454 has observed that "We agree with the petitioners that it is one of the fundamental principles of our jurisprudence that no man can be a Judge in his own cause and that if there is a reasonable likelihood of bias it is in accordance with natural justice and common sense that the justice likely to be so biased should be incapacitated from sitting.

The question is not whether the judge is actually biased or in fact decides partially, but whether there is a real likelihood of bias. What is objectionable in such a case is not that the decision is actually tainted with bias but that the circumstances are such as to create a reasonable apprehension in the mind of others that there is a likelihood of bias affecting the decision. The basic principle underlying this rule is that justice must not only be done but must also appear to be done and this rule has received wide recognition in several decisions of this Court. It is also important to note that this rule is not confined to cases where judicial power *stricto sensu* is exercised. It is appropriately extended to all cases where an independent mind has to be applied to arrive at a fair and just decision between the rival claims of parties. Justice is not the function of the courts alone; it is also the duty of all those who are expected to decide fairly between contending parties. The strict standards applied to authorities exercising judicial power are being increasingly applied to administrative bodies, for it is vital to the maintenance of the rule of law in a welfare state where the jurisdiction of



administrative bodies in increasing at a rapid pace that the instrumentalities of the State should discharge their functions in a fair and just manner."

Applying the observations laid down by the Hon'ble Apex Court in the above judgments to questions in hand, it can certainly be understood that the proper officer who has ascertained the liability under Section 61 or Section 65 or Section 67 cannot be said to be free from bias towards his own interpretation of law and ascertainment of tax while adjudicating the case under Section 73 or Section 74. The submissions as regard to facts and law made by the taxpayer while defending his self-assessment of tax liability during the course of proceedings under Section 61 or Section 65 or Section 67 which were rejected by the proper officer are most often ought to be similar during the adjudication under Section 73 or Section 74. And where the proper officer to the best of his beliefs has once rejected the submissions made by the taxpayer, the said officer is less likely to appreciate the same submissions made during the stage of adjudication. Appointing the same officer for ascertainment of liability under Section 61 or Section 65 or Section 67 and also adjudicating it under Section 73 or Section 74 may lead to Rule of bias as to subject matter against the tax-payer and defeat the Principles of Natural Justice.

As far as the Rule of Audi alteram partem or the rule of fair hearing is concerned, it is stipulated that the no adverse decision against a person can be made unless such person is unheard and also there should be fairness on part of the adjudicating authority. Although Section 75(4) of the CGST Act/SGST Act specifically provides that there shall compulsorily be granted an opportunity of personal hearing to the taxpayer where any adverse decision is contemplated against a tax-payer, the fairness of such personal hearing may still be under doubt where such hearing is being taken place in front of the proper officer who has determined the tax-liability of the taxpayer contrary to the submissions made by such tax-payer. So far as the fairness in personal hearing is concerned, principles of Rule against bias shall be applicable. In dispute between two parties, if either of them is to judge the case, there shall always be present the possibility of by-passing the natural justice.

Conclusion:

The principles of natural justice is omnipresent in any jurisprudence. Even if not specifically coded, it is accepted universale rommon a Which is based on the concept of fairnes and equity. In GST laws, as far as the process of adjudication is concerned, it is in the interest of Justice to the tax-payer that it shall be accorded fair trial before the unbiased adjudicating authority which is different from authority who was involved in the process of ascertainment of tax-liability.



# ETHICAL STANDARDS BOARD

## Know your Ethics?

*The Institute of Chartered Accountants of India (ICAI) is a professional body that governs and regulates the conduct of chartered accountants in India. The use of mobile phones by its members and students should adhere to a strict code of conduct and ethical guidelines to maintain professionalism and integrity. Below are some ethical principles and guidelines related to the use of mobile phones for members and students of ICAI*

- *Confidentiality: Chartered accountants and students must ensure that they do not discuss or disclose any client-related or sensitive information through text messages, calls, or any other form of communication on their mobile phones. Upholding client confidentiality is of utmost importance.*
- *Professionalism: Mobile phones should be used in a professional and courteous manner. Avoid using them during meetings, seminars, or any professional gatherings unless it is essential for the task at hand. Silent or vibrate mode should be used in such situations.*
- *Data Security: Members and students must take adequate measures to secure their mobile phones, including using passcodes or biometric authentication to prevent unauthorized access. Client data and other sensitive information should be stored securely and encrypted if necessary.*
- *Use for Work-Related Purposes: Mobile phones should primarily be used for work-related purposes. Excessive personal use during working hours should be avoided, as it can affect productivity and professionalism.*
- *No Unauthorized Recording: Recording conversations, meetings, or any form of communication without the consent of all parties involved is*



*unethical and may even be illegal in some cases. Members and students should always seek permission before recording any interactions.*

- *Avoid Distractions: Mobile phones can be a source of distraction. Chartered accountants and students should minimize distractions caused by their phones during working hours to maintain focus on their professional responsibilities.*
- *Social Media: While using mobile phones, members and students should exercise caution on social media platforms. Avoid posting or sharing content that could damage the reputation of the profession, the institute, or any clients. Be mindful of the ICAI's social media guidelines.*
- *Professional Communication: When communicating with clients, colleagues, or superiors through mobile phones, ensure that the tone and content of messages are professional and respectful. Avoid using slang or informal language.*
- *Emergency Situations: In cases of emergency, members and students may use their mobile phones for personal matters. However, they should inform their superiors or colleagues about the situation and seek permission if necessary.*
- *Compliance with Laws and Regulations: Members and students should comply with all relevant laws and regulations related to the use of mobile phones, including data protection and privacy laws.*
- *Continuous Learning: Stay updated on emerging technologies and trends related to mobile phone usage and cybersecurity to ensure the secure and ethical use of mobile devices in the profession.*



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- *Report Violations: If a member or student becomes aware of any violations of this code of conduct related to mobile phone usage by themselves or others, they should report it to the appropriate authorities within ICAI.*



PAST EVENTS


75  
आज़ादी का  
अमृत महोत्सव

ICAI  
75  
75 YEARS OF TRUSTEESHIP

G20  
भारत 2023 INDIA

**Akola Branch Of WIRC of ICAI  
and  
Akola Branch Of WICASA of ICAI**

Seminar On  
**TAX AUDIT  
INSIGHTS:  
KEY CLAUSE  
ANALYSIS**



**Speaker  
CA LALIT TAMBI  
Amrawati**



**Friday, 1st September 2023**

**Fees: ₹200**

**Time- 4 to 6 PM**

**For Students: ₹50**

**CPE 2 HRS**

**Annual member : Free**

 **ICAI Bhawan, Akola**

 **Followed By High-Tea**

**Regards**

CA SEEMA BAHETI CHAIRPERSON  
CA PANKAJ LADNIYA VICE-CHAIRPERSON & WICASA CHAIRPERSON  
CA SUMIT ALIMCHANDANI SECRETARY

CA BHUSHAN JAJOO TREASURER  
CA NAVIN KRIPLANI EXECUTIVE MEMBER  
CA HIREN JOGI IMMEDIATE PAST CHAIRMAN



## PAST EVENTS



Seminar on Tax Audit  
1 September 2023



PAST EVENTS

# Akola Branch Of WIRC of ICAI

Digimax Services  
8087470334

## आयकर गोष्ठी

## FOR CHARITABLE ORGANIZATIONS

[AN OUTREACH PROGRAMME BY INCOME TAX DEPARTMENT (EXEMPTIONS)]

Topic :  
**Recent Amendments in Income Tax Act to Exemption Provision and New Scheme of Registration of Charitable Organization**

Monday, 11th September, 2023

04.00 PM - 06.00 PM

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All CA Members, Advocates, Assistant staff all are Invited

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**100% FREE** ICAI BHAWAN, TOSHNIWAL LAYOUT, AKOLA

**SPEAKER**

**Shri Akash Yadav**

Dy. Commissioner Of Income Tax (Exemption) Circle, Nagpur

Topic :

**Exemption Provisions In It Act. Related To Charitable Institutions**

**SPEAKER**

**Shri Pankaj Shastri**

Income Tax Officer, (Exemption), Ward-1, Nagpur

Topic :

**Basic Requirement For Registration And Recent Changes In Registration Procedure Of Charitable Entities**

### Regards

CA SEEMA BAHETI CHAIRPERSON

CA PANKAJ LADNIYA VICE-CHAIRPERSON & WICASA CHAIRPERSON

CA SUMIT ALIMCHANDANI SECRETARY

CA BHUSHAN JAJOO TREASURER

CA NAVIN KRIPLANI EXECUTIVE MEMBER

CA HIREN JOGI IMMEDIATE PAST CHAIRMAN



**PAST EVENTS**



**Seminar on Charitable Organisation  
11 September 2023**



## PAST EVENTS



Ganesh Stapna at ICAI Bhavan



Dear valued readers,

We would like to express our sincere gratitude for your continued support and interest in our newsletter. It is because of your encouragement and feedback that we strive to deliver informative and engaging content on a regular basis.

As we move forward, we are always looking for ways to improve and expand our coverage of various topics. To that end, we would like to invite you to contribute articles to our newsletter. We welcome your perspectives and insights on a wide range of subjects, from technology and business to lifestyle and culture.


If you have an article that you would like to submit, please do not hesitate to reach out to us. We would be delighted to consider your piece for publication in our upcoming issues.


Thank you once again for your support, and we look forward to hearing from you soon.

Best regards,

CA Pranay Bafna and the Newsletter Team.

*Thank  
You*



  
**ICAI BHAWAN**  
THE INSTITUTE OF  
CHARTERED ACCOUNTANTS OF INDIA  
AKOLA BRANCH



**AKOLA BRANCH OF WIRC**