



# CONVERSATION WITH SHAKTI SAGAR ONE OF THE PIONEERS OF HYDERABAD'S IT INDUSTRY



" Striking a Balance:  
Embracing AI,  
Empowering Humanity "

Shakti Sagar



**Adv CM Agarwal**



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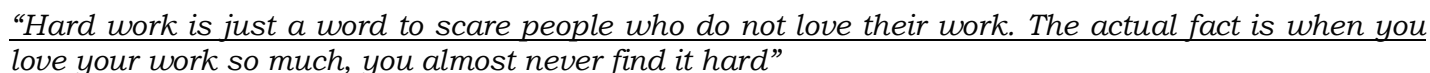


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**NEWSLETTER MAY 2023**



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# From the Desk of Honorary Chief Editor



## Dear Readers

Featuring an Exclusive Interview with a Pioneer of the Hyderabad IT Industry

As we step into the vibrant month of May, a time of renewal and growth, i had the privilege of engaging in a thought-provoking conversation with one of the founding figures of the Hyderabad IT industry. This exclusive interview shed light on the remarkable journey of this visionary individual and provided valuable insights into the transformative power of technology and innovation.



Throughout the interview, our esteemed guest Mr. Shakti Sagar shared his experiences and reflections on the evolution of the IT industry. From its humble beginnings to its current state as a driving force behind economic growth and societal advancement, we gained a deeper understanding of the pivotal role played by this pioneer in shaping our digital landscape.

The discussion delved into various aspects, including the challenges faced during the industry's nascent stages, the breakthrough innovations that propelled its growth, and the tremendous impact it has had on our society. Moreover, we explored the visionary perspectives of Mr. Shakti on the future of technology and how it will continue to shape our lives.

One crucial theme that emerged from the interview was the importance of empowering individuals in an ever-changing world. Mr. Shakti emphasized the need for continuous learning, adaptability, and embracing new opportunities. They highlighted the significance of equipping the workforce with the necessary skills to thrive in a digital era and encouraged collaboration between educational institutions and industry leaders to bridge the knowledge gap.

Furthermore, our interviewee stressed the vital role of inclusivity and diversity in the IT sector. They underscored the importance of fostering an environment where everyone, regardless of gender, race, or background, can contribute and excel. By embracing diverse perspectives and harnessing the collective intelligence of a varied workforce, we can drive innovation and create technology that truly serves the needs of all.

May serves as a reminder that by empowering individuals and embracing the dynamic world around us, we can collectively shape a future that is equitable, sustainable, and prosperous. Let us draw inspiration from the remarkable individuals who pioneered the IT industry and continue to forge a path towards progress. May this edition inspire you to embark on your own journey of growth and empowerment, contributing to the ever-evolving landscape of Hyderabad and beyond.

Remember, it is through the stories and wisdom of trailblazers that we find the inspiration to drive change and create a better tomorrow.

### Quote for the month

**"Embrace change, empower individuals, and shape a future where technology and innovation drive progress"**

Moradabad  
10<sup>th</sup> May 2023

With regards,

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# Interview of Shakti Sagar

## Independent Strategic Consultant

### (One of the Pioneers of Hyderabad's IT Industry)



**Shakti Sagar** is Independent Strategic Consultant.

Mr. Shakti is renowned as one of the founding leaders in Hyderabad's IT sector and is widely regarded as a visionary and thought leader. He is deeply passionate about achieving a harmonious life-life balance and firmly believes in the potential of IoT (Internet of Teams). His groundbreaking leadership and strategic approach have earned him the reputation of a revolutionary.

Mr. Shakti has been associated with various Indian & MNC startup organizations. He worked with Microcomp and Omron from 1976 to 1980, followed by Microsense Computers from 1980 to 1986. In 1987, he along with 4 other professionals established the first American Software Development Center (SDC) in Hyderabad. Subsequently he Lead Intergraph, D.E. Shaw India from 1996 to 1999 and ADP from 1999 to January 2016. Since 1991, he has been instrumental in leading these organizations to great heights.

Mr. Shakti has received several awards from various industry bodies. He serve the Industry with several positions held, to name a few are Past Chairman of CII (Erstwhile AP), First National Chair NASSCOM GIC Council, Past Chairman of AMCHAM Hyd Chapter, Past Chairman of HYSEA and Past Chairman of UWH.

Mr. Shakti is an inspiration/role model to young professionals who dream to achieve in professional life irrespective of qualifications.

Scan



Video Interview



1. **CA Arjit Agarwal** - On behalf of AASquare Advisors LLP, thank you for taking the time to share your professional journey with us on the theme of "The future of artificial intelligence (AI) and its potential impact on society."

**Shakti Sagar** - Thank you Arjit for inviting me to have a chat with you I look forward to.

2. **CA Arjit Agarwal** - Looking back at your journey as one of the founders in the IT industry of Hyderabad, what were some of the proudest moments and highlights that you experienced in building those startup companies?

**Shakti Sagar** - When I arrived in Hyderabad in 1983, I met four professionals & we formed a team. As we established multinational organizations together, from pure professionals we became friends & then like families. We were known in the industry as **PET 5** (Professional Entrepreneurs Team of 5).

We worked well as a team, having the same values & ethics, complementing each other's skills which led to growth & success for everyone. The biggest factor was ultimate trust & never doubted anyone's intentions during decision making.





We had the opportunity to lay the early foundation along with the state government for Hyderabad to be the future IT capital. As you may be aware

Hyderabad is often referred to as **"The North of South India & The South of North India"**. We coined that term.

The three companies we formed were distinct, so there was no conflict of interest. When we look back feel great as all of them doing very well & growing while contributing significantly to the state economy.

We demonstrated that creativity can be affordable & demonstrated the way we created external & internal areas. We used varied methods within the organizations to create a stress-free environment to foster productivity, value, happiness & loyalty resulting in higher retention rates, retention was always in early-nineties.



3. **CA Arjit Agarwal** - How do you see the IT industry evolving in the future, and what do you believe will be the biggest challenges and opportunities for startups in this space?

**Shakti Sagar** - The Indian IT industry's potential is immense with current economic situation. Our country's knowledge & intellect have earned global recognition as a superpower. Many opportunities arise in all industries, leading to significant economic growth & prospects. As a finance person, you would have observed that in this year's budget, the government emphasized the importance of IT as a big factor for increasing productivity & efficiency across the board. By embracing IT, brick & motor industries too can enhance their global competitiveness & contribute to swift economic growth. NASSCOM & McKinsey I think predicted IT exports could surge to \$250-300 billion by 2030.

Opportunities exist, but our utilization & capitalization vary. The areas to focus lies in AI, VR, & Data Analytics & Cyber security, as moving forward data/information will become increasingly complex & dangerous. Privacy & security compromises of clients' data will happen frequently, posing a recurring challenge for cyber security.

As a strong supporter of startups, I believe some opportunities to look at are in the agricultural field for with shrinking land sizes, farmers face various challenges to make both ends meet cause of a single crop. The opportunity is to work on technology that can boost for better utilisation of land to enable multiple crops; Renewable energy given the strong focus on environment; Healthcare reduction in costs, proactive devices to reduce expenses for early detection; Fintech has a lot of scope too; Digital marketing with social media being highly popular & a necessity presence for companies. great digital marketing potential, provided churn out with unique creative offerings.



What your thoughts are Arjit ?

**CA Arjit Agarwal** - Agreed, as a Chartered Accountant, digitalizing Income Tax & GST is crucial. Previously, we had to physically submit our papers to the department, causing various issues such as limited access to the person handling our case & time-consuming processing. Nowadays, everything is online, making the process easier. As a Chartered Accountant, I suggest submitting documents online for convenient processing by officers. Reduces harassment time, eliminates need for physical visit.

**Shakti Sagar** - From what I understand, Government tried to simplify, but uploading forms is still complex. Infrastructure is a major issue. Some of my CA friends say it's a hassle to upload docs & the site at times does not come up. I heard Infosys struggled with these issues last year & the government had to extend the deadlines for filing the returns. I believe Gov't has been working to fix these issues asap.

**CA Arjit Agarwal** - A lot of challenges happen during the implementation phase, in any company or anywhere, there is a lot of transition time & struggle during that time. After that, everything becomes smooth. The system has undergone change, from one website to another, & the Income Tax algorithm is not easy, there are a lot of challenges, but now it's very smooth. Everyone has a different view, but according to me, it's a really good initiative.



**Shakti Sagar** - I agree. As I see it, the goal should not be to undermine the role of chartered accountants. If the initiative is successful in making it easy for individuals to file their returns without any hassles, it would be a great thing. However, I think it's still a long way off, & CAs are still needed to guide & assist one in this regard.

**CA Arjit Agarwal** - The reasoning behind it Income tax is complicated, but working with a knowledgeable professional makes it easier. For example, with my B. Tech friend submits his own ITR, & showed me the details the following year. I told him he hadn't submitted proper details. He said no one objects due to minimal scrutiny of only 2-3%. Errors are possible when filing without professionals. It's best to seek their assistance.

**Shakti Sagar** - I completely agree. There are certain nuances that we may not know & a professional can help with that. I always believed, & that's what we practiced in all the companies that we were associated with to ensure we are doing everything right, especially with our taxes, so that at the end of the day all can have a good night's sleep because that's very important from health perspective.

**CA Arjit Agarwal** - Everything will be done on time with quality & without any compromise. If you compromise & your only motive is to save tax, you will face consequences. It's essential to be on the right side of the law & not be on thin ice, as you will sink when the ice melts.

**Shakti Sagar** - I am sure you are aware some organizations structure their salary structure to avoid taxes, but they need to understand that the law will catch up some day

Talking about startup challenges, today everyone wants to be a startupcoz so much hype created, but the key is to focus on real solutions for real problems, don't follow the herd mentality. You would recollect, quite a few years back in Andhra Pradesh, every second person got into aquaculture without having proper knowledge, resulting in industry wipeouts.



Securing funding is another major challenge. Funding is difficult to come by, even if one has a phenomenal/unique idea. One needs to brainstorm & approach it strategically to secure funding. Startups also need to grow at a reasonable pace without rushing as it can lead to missing crucial aspects of running the business & ultimately burnout.

Although unicorns have grown tremendously in the last seven years, we need to consider the other side of the picture too. How many startups failed in the last nine years? So be realistic.

**CA Arjit Agarwal** - Even I was reading one of the first case studies, & I don't remember exactly, but around 90% of startups end up with litigation aspects within two to three years, & only 5 to 10 percent achieve success.

4. **CA Arjit Agarwal** - Can you share insights into your approach to building and nurturing successful teams within your company, and how you fostered a culture of innovation and collaboration?

**Shakti Sagar** - We believed in creating an Innovation culture made up of practices that support & strengthen innovation as a key aspect of progress & growth. We tried to create an environment to have every associate feel that they work with the organisation & not for the organisation"

We did the following Encouraged our associates to think outside the box; empowered camaraderie & collaboration; encouraged open communication genuinely interested in their opinions; trained our







associates AOB to think like entrepreneurs - if you got an idea or your team has got an idea, think of the consequences, think of what the P&L is, what the cost will be, what's the benefit, do you do an ROI; valued diverse experience; provided constructive feedback along with the comfort that failing is OK; Recognized & rewarded the successful innovations at various forums; made room for fun.



5. **CA Arjit Agarwal** - What advice would you give to aspiring entrepreneurs looking to make a name for themselves in this field? What do you believe are the most important qualities for success in this space?

**Shakti Sagar** - As a startup, don't be fooled by media hype about successful entrepreneurs. Be fully aware for success rates are low so need to be well informed & passionate.

Market research is often neglected. Do market research for one's idea to understand its potential, existing players, market segment, catchment area & how to reach it. Lack of sufficient research leads to lack of data, so ensure you conduct enough research. Market research is crucial. Share your idea with family & friends to seek honest feedback.



Create a 3-year business plan rather than solely focusing on valuation, as many startups tend to do. In fact create a business model that sustains the enterprise. Focus on creating value and valuation will automatically happen.

After taking that step, consider your enterprise vision for that is a key ingredient for attracting talent, team motivation & retention. Consider the equity structure is doing it alone or with like-minded friends or entrepreneurs who share one's values, ethics, & complement one another skills. Like I said earlier, we succeeded as a team because we complemented each other, had healthy debates on progress & issues & trusted those who took responsibility & decisions. We had weekly updates on progress. Sharing information is crucial especially Financial & Sales.

Ensure adequate finances, especially as working capital & also personal financial requirements as cash inflow may be limited - depending on the nature of business need at least to hold for 18 months of expenses without any income? Be cautious & closely monitor your costs, profit & loss, & balance sheet.

Lock-in your revenue streams rather before focussing on rapid expansions.

Make your website work for you. Online marketing is a vital tool for almost every business.

**CA Arjit Agarwal** - It's like mutual funds are subject to market risk & for the second thing, if you are joining & working with any of your colleagues or any of your family members, then don't feel that you are supreme or the other is supreme. Everyone is equal & everyone has an equal responsibility, & it will be successful.

**Shakti Sagar** - Absolutely, I think that it is very important to really ensure that someone else's idea/suggestion is better than yours. It's okay to accept & say, "Yeah, your idea is better than mine" rather than saying, "Oh, I know everything. My idea is the best." Be humble, because at the end of it, that's the real trait of a successful entrepreneur.

6. **CA Arjit Agarwal** - Do you believe that we should promote the development of AI, machine learning, and related technologies, such as ChatGPT, even though some people fear that they may eventually replace humans? This is like the same scenario that happened a few years ago when the entire banking industry was digitalized and people were afraid that they would become jobless or not be appointed.

**Shakti Sagar** - Let's step back & discuss the banking industry. I witnessed the launch of ALPM (Advanced Ledger Posting Machine) at the nationalized banks. Initially there was a lot of resistance from the bank staff to deploy them for their job displacement. We need to explain at great lengths to convince that the machines won't displace anyone but instead will make life easier for them with accuracy of data, data updating, entry postings & end of the day reconciliation.

So now coming to development of technology, let's first understand the basic ingredients that drive economic growth - Capital, Productivity & Labour - all three are facing new challenges in a changing





environment. Technology-enabled innovation is the major key to productivity economic growth & being globally competitive. So Primary drivers of change has to be technology, spearheaded by digital transformation. Advances in digital technologies hold considerable potential to increase the speed of productivity & better utilization of capital in turn achieve better economic growth

However, relying too heavily on technology is a concern too. We should be in control of technology & not let technology control us. As we are aware ChatGPT has faced criticism & the jury is out. Don't stifle the young minds thirst for innovation, research, & critical thinking. Our minds have created technology & so let's not destroy them. AI/VR/AR are useful in many areas to enhance productivity but we must not let them consume us. We need to establish clear boundaries for utilizing it appropriately & not destabilize jobs focus on deployment in sectors such as medical, healthcare, financial, defense, agriculture etc.

**CA Arjit Agarwal** - So, the thing I realized is that after getting ChatGPT, everyone, whether it's a technology person or a finance person, is becoming a slave to it & not using their minds to even write one message, one line, one question, or anything. They are just referring to ChatGPT & getting the work done.

**Shakti Sagar** - Today, emojis on WhatsApp have taken over. You want to say thank you, you just send an emoji. You can convey information with just one symbol. However, we need to be careful not to lose that human touch. We should use technology where it's appropriate & where it makes a difference, such as in improving productivity & capital. In the good old days, you would call up someone to wish them happy birthday, but now one just sends a WhatsApp message rather than a personal call. AI will not replace human emotions completely. There are definitely advantages to AI, but one needs to be cautious about where & how we deploy it.

**7. CA Arjit Agarwal** - What do you think is the most significant factor in achieving success in life: qualifications, background/family heritage, or are there other paths to success? My question is this: Nowadays, if someone is from the IT sector, he or she may feel that they have not done enough if they did not attend IIT. If someone is from the MBA side, they may feel that they have not done enough if they did not attend a prestigious institute like IIM. Similarly, if someone refers to my profession, they may feel that they have not achieved enough if they have not completed an articleship from a big organization or if they did not clear an exam in their first attempt. Even if they have cleared everything, they may feel that they will not be successful due no Rank. So, do you think these are the factors that contribute to achieving success?


**Shakti Sagar** - Yes, basic qualifications & family background do matter as they lay the foundation towards basic knowledge & values.

I believe God provides everyone equal abilities but maybe in a different manner, I wasn't great in was just an average in my academics but developed different skill to compensate.

I believe for true success one has to: first & foremost be true to oneself; need to maintain highest level of ethics & integrity; respect for every individual for no job is big or small as every job contributes to success, need to be a good listener & observer; need to keep learning & upskilling & not becoming complacent; Admit when one makes a mistake; Accept & acknowledge someone's idea/thought as better than yours irrespective of your position/status; Grow your network & never let any opportunity go by; have confidence in oneself no matter what happens.

To illustrate my point, let me share a bit of my journey - I had no choice but to take for my graduation Commerce as I wasn't good at Literature or Science. Fortunately, I had an opportunity in Bombay, to do enumeration for a market research organization after college hours. This opportunity taught me a lot about dealing with different persons. Post graduation I decided to get into sales because it seemed a good starting point for my career journey. I started at the bottom of the pyramid & over the years worked my way up. After a few years, my next step was to move into marketing I then onto product management. When my boss asked me to look after purchasing too, though I had no clue, but I said yes & learned as I went along. I was blessed to eventually lead three core organizations.



 CHARTERED ACCOUNTANTS ASSOCIATION, AHMEDABAD  
39th RRC at RAMOJI FILM CITY, HYDERABAD, 3rd - 6th AUGUST, 2012



**CA Arjit Agarwal** - So, the same culture that I have quoted in my office, sometimes my employees & associates, who I consider a part of my family, have free time during the 24 or 8-hour workday. In these cases, I tell them that they can do whatever they want. We have a garden which serves as our second office & a great stimulant for fresh thoughts. They are free to do whatever they want during their free time

**Shakti Sagar** - Yeah, I had coined this term "**Life-Life Balance**" The thought behind, was as you would agree we are all passionate about life. & I also believe for success it is important to be passionate about the work one does for a living. So, if one is passionate about what the work one does, then that's also one's life too, & hence my coinage "**Life-Life balance**", & not "**Work-Life balance**".

**CA Arjit Agarwal** - That is the reason why I used to take interviews every month. It's like my hobby, Passion. I didn't get any money or anything. I didn't, but this makes me happy & feel good & get connected with the seniors so that I can come across what's going around the world, around the industry, & maybe in the after 10 to 15 years, I will be a much more knowledgeable person than any others. So that's the main motive & purpose of doing these things.

**Shakti Sagar** - I will slightly modify that, Arjit. From "I would be more knowledgeable than most", to "I will be able to share a little more knowledge & help others because of the various interactions that I have had, the opportunity to go through.

8. **CA Arjit Agarwal** - Thank you for your thoughtful responses to my questions. I enjoyed our conversation, and I am confident that the insights you shared will inspire future entrepreneurs. Thank you again for your time.

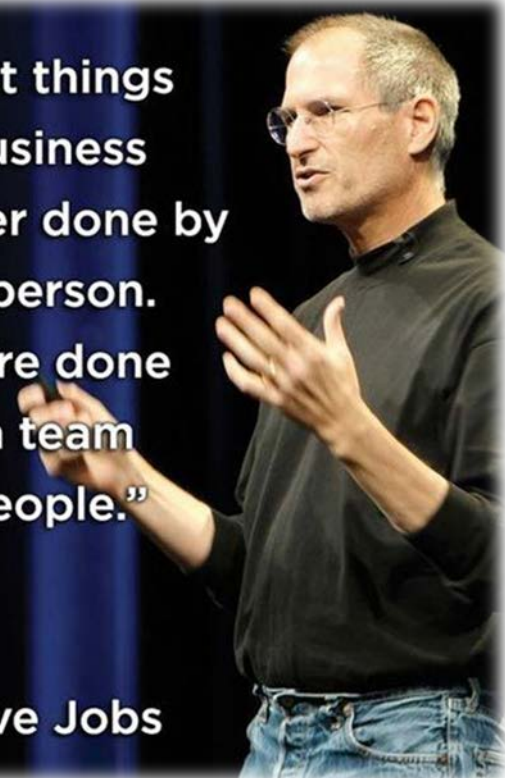
**Shakti Sagar** - It's been mutual. As I said, every interaction has to have a takeaway, otherwise it's a waste of time.

I would really thank you for thinking about me & saying, 'Hey, let's have an interaction.' I really appreciate that & wish you all the best. & take care, keep smiling.



"Great things  
in business  
are never done by  
one person.  
They're done  
by a team  
of people."

- Steve Jobs





# Will penalty impose under GST if ITC wrongly claimed and not utilized? Honorable Madras High Judgement

## 1. In Brief :-

Under Section 73 of Central Goods and Services Tax Act 2017, 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 utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him 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 provisions of this Act or the rules made thereunder.

Under Section 74 of Central Goods and Services Tax Act 2017, 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 utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him 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 equivalent to the tax specified in the notice.

Recently

**Honorable Madras High Court** in case of

**M/s.Aathi Hotel Vs The Assistant Commissioner (ST) (FAC)**

### Held that

(i) Under Sections 73(1) and 74(1) of the Act, proceedings can be initiated for mere wrong availing of Input Tax Credit followed by imposition of interest penalty either under Section 73 or under Section 74 they stand attracted only where such credit was not only availed but also utilised for discharging the tax liability **(Para 19)**

(ii) That the petitioner is not liable to penalty imposed. At the same time, since there was an attempt to wrongly avail credits and utilise the same as and when the tax liability would have arisen, the petitioner is held liable to a token penalty. **(Para 20)**

## 2. Relevant terms :-

Section No.	Bare Law
<b>Section 42. Matching, reversal and reclaim of input tax credit</b>	(7). The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-Section (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-Section (9) of Section 39.

## 3. Important Relevant Judgment discussed during proceedings :-

S.No.	Case Law	Judgment
1.	Commercial Steel	35. The legislative intent reflected from a purposeful reading of the

	Engineering Corporation Vs. State of Bihar, [2019] 28 GSTL 579 (Patna)	provisions underlying section 140 alongside the provisions of section 73 and Rules 117 and 121 is that even a wrongly reflected transitional credit in an electronic ledger on its own is not sufficient to draw penal proceedings until the same or any portion thereof, is put to use so as to become recoverable.
2.	Hon'ble Supreme Court in Union of India Vs. Ind-Swift Laboratories Limited [2011] 4 SCC 635	Held that wrong filing of credit rule attracts interest under the Provisions of the Cenvat Credit Rules 2002 read with Central Excise Act, 1944. There the credit was availed and the benefit of refund was claimed. The case was attempted to be settled after payment of the amount ITC availed utilized before the settlement commission which circled interest at 10% per annum from the due date as per Section 11 AB of the Central Excise Act, 1944.

#### 4. Facts of Case in M/S Aathi Hotel :-


- a) That the petitioner is a hotelier and had purchased certain capital goods in connection with the business.

b) Since GST was being implemented, the petitioner appears to have availed input tax credit paid on the capital goods which were purchased in connection with the hotel business with a view to set off the tax liability on the furniture business which the petitioner intended to start.

c) After Show Cause Notice was issued to the petitioner on 09.05.2019, the petitioner replied and admitted the mistake by a reply dated 04.02.2020.

d) The petitioner also reversed the transitional credit in the returns filed for the month of January 2019-20 in Form GSTR-3B under Rule 61(5) of the TNGST Rules, 2017. There are no records to show utilization of such credit.

e) That though an improper attempt was made by the petitioner to transition the aforesaid credit. The petitioner had however not utilized the same and had also reversed the same on 10.02.2020 after a Show Cause Notice were issued within a period prescribed under Section 73 of TNGST Act, 2017 by invoking Section 74 of the TNGST Act, 2017.



#### 5. Honorable High Court :-

##### a) Issues before the High Court :-

- i. Levying interest and imposing penalty under the provisions of Tamil Nadu Goods and Services Tax Act, 2017 if ITC wrongly claimed but not utilized and entire amount reversed?

##### b) Assessee's Department's Contention:-

Department's Contention	Assessee's Contention
<ul style="list-style-type: none"> <li>That the petitioner has an alternate remedy under Section 107 of the Tamil Nadu Goods and Services Act, 2017 and therefore this writ petition is liable to be dismissed.</li> <li>That the petitioner has an alternate remedy before the Appellate Commissioner and therefore the writ petition is liable to be dismissed.</li> <li>That the petitioner was neither entitled to Input Tax Credit under the provisions of the erstwhile Tamil Nadu Value Added Tax Act, 2006 nor entitled to transition in the credit under the provisions of Tamil Nadu Goods and</li> </ul>	<ul style="list-style-type: none"> <li>That Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017 will get attracted only where there is a wrong utilization of credit availed.</li> <li>That interest under Section 50 (3) of the Act will apply only in the case of a person who makes undue or excess claim of Input Tax Credit under sub-section 10 of Section 42 or undue or excess reduction in output tax liability under sub-section 10 of Section 43 in which case, interest shall be paid on such undue or excess claim or on such undue or excess reduction/deduction as the case may</li> </ul>



Services Tax Act, 2017 and therefore submits even on merits the petitioner is liable to pay interest and penalty for availing the transitional credit wrongly.

- That the petitioner has admitted that the petitioner was not registered as a dealer of furniture products under the TNVAT Act, 2006 and therefore the attempt of the petitioner to avail credit and transition the same shows that the petitioner's intention was not bonafide but was to wrongly utilize the input tax credit which was not available to the petitioner.
- That the petitioner had un-availed credit for a sum of Rs.2,29,850/- whereas the petitioner transitioned a credit of Rs.3,86,271/- with a view to wrongly utilize the same.
- That the interest is consequential and the penalty is also consequential in terms of the Section 74 of the TNGST Act, 2017 and therefore prays for the dismissal of the writ petition.

be, at such rate not exceeding 24 percentage as may be notified by the Government on the recommendations of the GST Council.

- That Section 42 (10) of the Tamil Nadu Goods and Services Tax Act, 2017 is not attracted in the facts and circumstances of the case, as the petitioner has never utilized the credit which was attempted for transition by filing TRAN-1.
- That sub-section 10 to Section 42 will apply when the amount reduced from the output tax liability in contravention of the provisions of sub-section 7 which has to be added to the output tax liability of the recipient in his return for the month in which contravention takes place and such recipient shall be liable to pay tax/interest on the amount so added at the rate specified under sub-section 3 of Section 50 of the Tamil Nadu Goods and Services Tax Act, 2017.
- That Section 42 (7) will not apply as Section 47 (2) applies to the situation where will apply, in the case of a recipient.

### c) Honorable High Court Ruling:-

(i) Before levying penalty or interest, a proper excise was required to be made by a proper officer under Section 74(10) after ascertaining whether the credit was wrongly availed and wrongly utilised **(Para 19)**

(ii) Under Sections 73(1) and 74(1) of the Act, proceedings can be initiated for mere wrong availing of Input Tax Credit followed by imposition of interest penalty either under Section 73 or under Section 74 they stand attracted only where such credit was not only availed **but also utilised for discharging the tax liability (Para 19)**

(iii) That the petitioner is not liable to penalty imposed. At the same time, since there was an attempt to wrongly avail credits and utilise the same as and when the tax liability would have arisen, the petitioner is held liable to a token penalty. **(Para 20)**



## 6. Conclusion :-

In conclusion, it is important to note that the processes under Section 73 and 74 can be initiated in cases of incorrect availment of Input Tax Credit (ITC). However, the imposition of interest penalties under these sections is applicable only if the **availed credit was not only utilized but also used for discharging the tax liability.**

It is a welcome judgment by Honorable High Court.

\*Sources

- <https://www.hcmadras.tn.nic.in/>
- <http://www.incometaxindia.gov.in/Pages/acts/income-tax-act.aspx>

**Disclaimer:** - This Article is just brief of recent Judgment and is not to be construed as any form of legal opinion whatsoever. Readers are requested to go through the Judgment in detailed for more/better understanding.



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This is Gist of all important updates during **April 2023** relating to circulars, notifications, miscellaneous communications & press releases from Income Tax Department and advisory communications to the best of our Knowledge and sources\* in brief. However readers are advised to read the relevant in details for better understanding.



### 1. Income Tax Act 1961 – Notifications :-

Notification No.	Dated	Heading	In Brief	Link to Read Full
16/2023	01 <sup>st</sup> April	Clause (46) of section 10 of the Income-tax Act, 1961	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Bhadohi Industrial Development Authority', (PAN AAALB0141M), an Authority constituted by the state government of Uttar Pradesh, in respect of the following specified income arising to that Authority	<a href="#">Click here to Read</a>
17/2023	06 <sup>th</sup> April	Section 285BA of the Income-tax Act, 1961 read with sub-clause (ii) of clause (D) of the Explanation to clause (6) of rule 114F of the Income-Tax Rules, 1962	In exercise of the powers conferred by section 285BA of the Income-tax Act, 1961 read with sub-clause (ii) of clause (D) of the Explanation to clause (6) of rule 114F of the Income-Tax Rules, 1962 (hereinafter referred to as "said sub-clause"), the Central Board of Direct Taxes, hereby makes amendment in the notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, published in the Gazette of India, Extraordinary, Part I, Section 1 vide Notification No. 78/2018 dated the 5th November, 2018 in the Table specifying jurisdictions for the purpose of the said sub-clause	<a href="#">Click here to Read</a>
18/2023	10th April	Clause (46) of section 10 of the Income-tax Act, 1961	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Greater Noida Industrial Development Authority', (PAN AAALG0129L), an Authority	<a href="#">Click here to Read</a>



			constituted by the state government of Uttar Pradesh, in respect of the certain specified income arising to that Authority	
19/2023	10 <sup>th</sup> April	Clause (46) of section 10 of the Income-tax Act, 1961	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Central Board of Secondary Education', Delhi (PAN AAAAC8859Q), a Board constituted by the Central Government, in respect of the certain specified income arising to that Board	<a href="#">Click here to Read</a>
20/2023	10 <sup>th</sup> April	Clause (46) of section 10 of the Income-tax Act, 1961	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Central Board of Secondary Education', Delhi (PAN AAAAC8859Q), a Board constituted by the Central Government, in respect of the certain specified income arising to that Board	<a href="#">Click here to Read</a>
21/2023	10 <sup>th</sup> April	Cost Inflation Index (provisional)	In exercise of the powers conferred by clause (v) of the Explanation to section 48 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, published in the Gazette of India, Extraordinary, vide number S.O. 1790(E), dated the 5th June, 2017  Cost Inflation Index (provisional) 348 for FY 23-24	<a href="#">Click here to Read</a>
22/2023	17 <sup>th</sup> April	Clause (46) of section 10 of the Income-tax Act, 1961	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes No.34/2020 dated the 23rd June, 2020, published in Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 2015(E) dated the 23rd June, 2020	<a href="#">Click here to Read</a>
23/2023	21 <sup>st</sup> April	Section 35 of the Income-tax Act, 1961	In exercise of the powers conferred by clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 (43 of 1961) read with Rules 5C and 5E of the Income-tax Rules, 1962. the Central Government	<a href="#">Click here to Read</a>

		<p>hereby approves 'National Institute of Design, Ahmedabad (PAN: AAATN1137D)' under the category of 'University, College or Other Institution' for 'Scientific Research' for the purposes of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 read with rules 5C and 5E of the Income-tax Rules, 1962</p> <p>This Notification shall apply with effect from the date of publication in the Official Gazette (i.e., from the Previous Year 2023-24) and accordingly shall be applicable for Assessment Years 2024-2025 to 2028-2029</p>	
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## 2. Income Tax Act 1961 – Circulars :-

Dated	Heading	In Brief	Link to Read Full
<p>F. No. 370142/14/2022-TPL</p> <p>Circular No. 3/2023</p>	<p>Clarification regarding deduction of TDS under section 192 read with sub-section (1A) of section 115BAC of the Income-tax Act, 1961 - reg.</p>	<p>If intimation is not made by the employee, it shall be presumed that the employee continues to be in the default tax regime and has not exercised the option to opt out of the new tax regime. Accordingly, in such a case, the employer shall deduct tax at source, on income under section 192 of the Act, in accordance with the rates provided under sub-section (1A) of section 115BAC of the Act.</p>	<p><a href="#">Click here to Read</a></p>

## 3. CBDT Press Releases :-

Dated	Heading	In Brief	Link to Read Full
03 <sup>rd</sup> April	<p>Direct Tax collections (provisional) for the Financial Year (FY) 2022-23 exceed the Union Budget Estimates by Rs 2.41 lakh crore i.e. by 16.97%</p> <p>Direct Tax collections (provisional) for the FY 2022-23 exceed Revised Estimates by 0.69%</p> <p>Gross Direct Tax collections (provisional) for the FY 2022-23 stand at Rs. 19.68 lakh crore registering a growth of 20.33%</p> <p>Net Direct Tax collections (provisional) for the FY 2022-23 stand at Rs. 16.61 lakh crore marking a growth</p>	<p>The provisional figures of Direct Tax collections for the Financial Year (FY) 2022-23 show that Net collections are at Rs. 16.61 lakh crore, compared to Rs. 14.12 lakh crore in the preceding Financial Year i.e. FY 2021-22, representing an increase of 17.63%.</p> <p>The Budget Estimates (BE) for Direct Tax revenue in the Union Budget for FY 2022-23 were fixed at Rs.14.20 lakh crore which were revised and the Revised Estimates (RE) were fixed at Rs.16.50 lakh crore. The provisional Direct Tax collections (net of the refunds) have exceeded the BE by 16.97% and RE by 0.69 %.</p> <p>The Gross collection (provisional) of Direct Taxes (before adjusting for refunds) for the FY 2022-23 stands at Rs. 19.68 lakh crore showing a growth of 20.33 % over the gross collection of Rs.16.36 lakh crore in FY</p>	<p><a href="#">Click here to Read</a></p>



	<p>of 17.63% Refunds aggregating to Rs. 3,07,352 crore have been issued in FY 2022-23</p>	<p>2021-22.</p> <p>The gross Corporate Tax collection (provisional) in FY 2022-23 is at Rs.10,04,118 crore and has shown a growth of 16.91% over the gross corporate tax collection of Rs.8,58,849 crore of the preceding year.</p> <p>The gross Personal Income Tax collection (including STT) (provisional) in FY 2022-23 is at Rs.9,60,764 crore and has shown a growth of 24.23% over the gross Personal Income Tax collection (including STT) of Rs.7,73,389 crore of the preceding year.</p> <p>Refunds of Rs.3,07,352 crore have been issued in the FY 2022-23 showing an increase of 37.42 % over the refunds of Rs.2,23,658 crore issued in FY 2021-22.</p>	
04 <sup>th</sup> April	Amendment to section 10(26AAA) of the Income-tax Act, 1961 by the Finance Act, 2023	<p>Following the Hon'ble Supreme Court's decision in Writ Petition (C) No. 59/2013 with 1283/2021, certain amendments have been made in clause (26AAA) of section 10 of the Income-tax Act, 1961 by the Finance Act, 2023. For the purposes of removal of doubts, it is hereby clarified that the term "Sikkimese" defined for the purposes of the said clause, is only for the purposes of the Income-tax Act, 1961, and not for any other purpose.</p>	<a href="#">Click here to Read</a>
11 <sup>th</sup> April	Search and seizure action by Income Tax Department in Karnataka	<p>These business entities included contractors, real estate companies, etc. No KYC norms were followed while discounting such bearer cheques. The amounts after discounting were credited in the bank accounts of certain Cooperative Societies maintained with these Cooperative Banks. It was also detected that some Cooperative Societies subsequently withdrew funds in cash from their accounts and returned the cash to business entities. The purpose of such discounting of large number of cheques was to mask the real source of the cash withdrawal, and to enable the business entities to book bogus expenses. In this modus operandi, Cooperative Societies have been used as a conduit. Further, by using this modus operandi these business entities were also circumventing the provisions of the Income-tax Act, 1961, which limits the allowable business expenditure incurred other than by account payee cheque. Bogus expenditure booked in this way by these beneficiary business entities, could be to the tune of about Rs 1,000 crore.</p> <p>It was also unearthed during the search action that the management of these Cooperative banks have indulged in generating unaccounted money through their real estate &amp; other businesses. This</p>	<a href="#">Click here to Read</a>

		unaccounted money, has been brought back in the books of account, by multiple layering, through these banks. Further, the bank funds were routed, without following due diligence, through various firms and entities owned by the management persons, for their personal use. The search action has resulted in seizure of unaccounted cash of over Rs 3.3 crore and unaccounted gold jewellery worth over Rs 2 crore.	
13 <sup>th</sup> April	Release of Direct Tax Statistics	<p>(i) Net Direct Tax Collections have increased by 121.18% from Rs. 6,38,596 crore in F.Y. 2013-14 to Rs. 14,12,422 crore in F.Y. 2021-22.</p> <p>(ii) Net Direct Tax Collections have increased by 160.17% from Rs. 6,38,596 crore in F.Y. 2013-14 to Rs. 16,61,428 crore (provisional) in F.Y. 2022-23.</p> <p>(iii) Gross Direct Tax Collections have increased by over 126.73% in F.Y. 2021-22, reaching a figure of Rs. 16,36,081 crore from Gross Direct Tax Collections of Rs. 7,21,604 crore in F.Y. 2013-14.</p> <p>(iv) Gross Direct Tax Collections have increased by over 172.83% in F.Y. 2022-23, reaching a figure of Rs. 19,68,780 crore (provisional) from Gross Direct Tax Collections of Rs. 7,21,604 crore in F.Y. 2013-14.</p> <p>(v) Direct Tax Buoyancy at 2.52 in F.Y. 2021-22 is the highest Direct Tax Buoyancy recorded over last 15 years.</p> <p>(vi) Direct Tax to GDP ratio has increased from 5.62% in F.Y. 2013-14 to 5.97% in F.Y. 2021-22.</p> <p>(vii) The Cost of collection has decreased from 0.57% of total collection in the F.Y. 2013-14 to 0.53% of total collection in the F.Y. 2021-22.</p>	<a href="#">Click here to Read</a>

#### 4. CBDT Relevant Miscellaneous Communications :-

Dated	Heading	In Brief	Link to Read Full
01 <sup>st</sup> April	HIGHLIGHTS OF FINANCE ACT, 2023	Department has shared a PowerPoint presentation covering Highlights of Finance Act 2023	<a href="#">Click here to Read</a>
01 <sup>st</sup> April	Specified date for the purposes of sub-rule (4) to rule 114AAA of the Income-tax Rules, 1962 - reg.	<p>In exercise of the powers conferred under sub-rule (4) of rule 114AAA of the Income tax Rules, 1962 (the Rules), the Central Board of Direct Taxes (the Board) hereby specifies the 1st day of July, 2023 as the date on which the provisions of sub-rule (3) of rule 114AAA shall take effect.</p> <p>This is in supersession of the earlier order dated 30th March, 2022 issued by the Board for the purposes of proviso to sub-rule (2) to rule 114AAA of the Rules.</p>	<a href="#">Click here to Read</a>

Sources \* <http://www.incometaxindia.gov.in> as on date 09<sup>th</sup> May 23

## 1. In Brief :-

This is Gist of all important updates during **April 2023** relating to circulars, notifications, from GST Department to the best of our Knowledge and sources\* in brief. However readers are advised to read the relevant in details for better understanding.



## 2. Notifications :-

Notification No.	Dated	Heading	Brief
There is no important Notification for the period April 2023			

## 3. Instructions/ Guidelines :-

Notification No.	Dated	Heading	Brief
There is no important Instructions/Guidelines for the period April 2023			

## 4. Circulars :-

Circular No.	Dated	Heading	Brief
There is no important Circulars for the period April 2023			

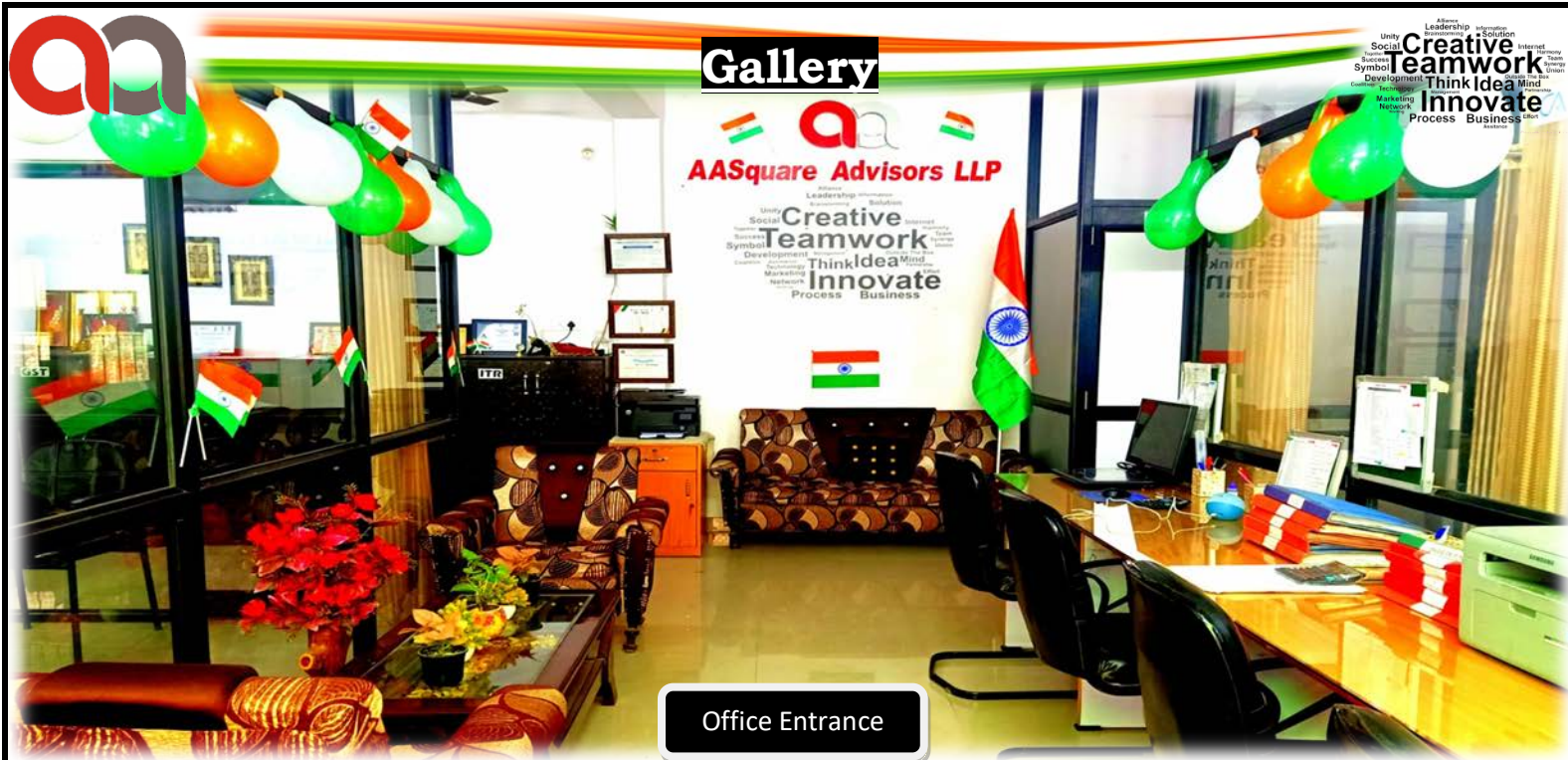
Sources \* <https://cbic-gst.gov.in/> as on date 09<sup>th</sup> May 23





## Gallery

Creative  
Teamwork  
Think Idea  
Mind  
Innovate  
Process Business



Office Entrance

Strawberry

## Beautiful Garden in office premises

Tomatoes



Tree Plantation