

सीए. (डा.) देबाशीस मित्रा
अध्यक्ष

CA. (Dr.) Debashis Mitra
President



भारतीय सनदी लेखाकार संस्थान
(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

ICAI/IDTC/2022-23/Rep/4

8th September, 2022

Hon'ble Shri Dushyant Chautala

Deputy Chief Minister, Haryana and
Convenor

Group of Ministers on Goods and Services Tax Appellate Tribunal (GSTAT)

5th Floor, Haryana Civil Secretariat

Sector 1, Chandigarh - 160001

Tel. No. 0172-2740212

Respected Sir,

Sub: Request to include Chartered Accountants as Technical Member of GST Appellate Tribunal

Greetings from Institute of Chartered Accountants of India (ICAI). The ICAI has been actively engaged in representation on GST policy and implementation as also has been supporting the Government in GST knowledge dissemination amongst all stakeholders through its technical publications, e-learning initiatives, newsletter, certificate course, seminars, conferences etc.

With the instant communication, we wish to submit for your kind consideration a case to qualify Chartered Accountants as Technical Member of GST Appellate Tribunal.

Competency of Chartered Accountants: Professionals par excellence

Unlike excise duty, which was a levy on manufacture, GST is a value added tax leviable on each 'supply' transaction and its monitoring is record based. Being a stand-alone levy on production, excise duty did not require knowledge of financial accounts. However, GST is a business tax and hence understanding of GST law requires deep insight into the domain of trade as evidence of taxability emerges from various commercial arrangements/transactions found in the books of accounts of taxpayers.

Chartered Accountants have the expertise in the domain of accounting, auditing, finance and tax and corporate laws as these are the core subjects of Chartered Accountancy curriculum which is a unique amalgam of theoretical education and 3 years of practical training. The Chartered Accountancy examinations in India have a quintessential legacy of being termed as one of the most rigorous and difficult professional examinations to qualify. The high standard of Chartered Accountancy



examination has been recently acknowledged and appreciated by the Supreme Court in the case of Bar Council of India. The detailed structure of the CA course can be referred to the Prospectus enclosed herewith.

Since Chartered Accountants are skilled in understanding and appreciating the various dimensions of the financial aspects of any business, Judicial Members of GST Appellate Tribunal would benefit from their support and assistance in interpreting the legal implications of the variety of commercial arrangements carried in books of accounts.

Chartered Accountants have proved their mettle in the field of judiciary as well. Supreme Court and High Court Judges such as Justice (CA.) Anil R. Dave, Justice (CA.) Vibhu Bakhru, Justice (CA.) Dr. Vineet Kothari, Justice (CA.) Rajiv Shakdher, Justice (CA.) Ramesh Ranganathan, Justice (CA.) Dinesh Mehta, Justice (CA.) R.V. Easwar, Justice (CA.) Bhargav D Karia, are some of the luminaries who are also Chartered Accountants.

Chartered Accountants are Accountant Members in ITAT

Income-tax Appellate Tribunal has admitted Chartered Accountants to be Accountant Members. Reference may be had to section 252(2A) of Income-tax Act, 1961 which reads as:

"252. Appellate Tribunal

.....

(2A) An accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949), or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant, or who has been a member of the Indian Income-tax Service, Group A and has held the post of Additional Commissioner of Income-tax or any equivalent or higher post for at least three years.

....."

Chartered Accountants as Accountant Members have contributed immensely to the ITATs motto of 'Nishpaksh Sulabh Satvar Nyay'. CA. G S Pannu, CA. R. K. Panda, CA. Manish Borad, CA. Shamim Yahyat, CA. S Rifaur Rahman, CA. Pavan Kumar Gadale, are some of the Accountant Members of ITAT who are well respected for their service to the Nation.

Strengthening GST Appellate Tribunal

Besides the National Bench at New Delhi and Regional Benches at Kolkata, Mumbai and Chennai, every State will have a GST Appellate Tribunal in addition to one or two Area Bench in each State in accordance with decisions taken by the GST Council



at its 28th and 35th meeting. Further, GST Appellate Tribunal, in accordance with proviso to section 109(10) of the CGST Act, 2017, will also have Single Member Benches. Based on the above, it is estimated that there will be a requirement of more than 150 Technical Members across the country to be appointed to the GST Appellate Tribunal. Not only the Centre but every State will also need to find suitable number of Technical Members for the State and Area Benches of the GST Appellate Tribunal. Centre, too, will need to find more than 70 Technical Members (Centre) to join the GST Appellate Tribunal.

GST disputes are unlikely to be resolved in adjudication or by First Appellate Authority as Revisionary Authority has been empowered under section 108 of CGST Act, 2017 to examine decisions that are 'prejudicial to interests of revenue'. Thus, all matters will be carried to GST Appellate Tribunal. For this reason, GST Appellate Tribunal needs to be strengthened with suitable number of members and Chartered Accountants are willing to come forward and support the Nation in this cause.

Request: Amend section 110 of the CGST Act, 2017 to qualify Chartered Accountants as Technical Member to GST Appellate Tribunal

Chartered Accountants as Technical Members perfectly fit all criteria, that is, availability of competent professionals of impeccable integrity, knowledge, training, regulatory oversight who are readily available to support as long as their services are needed to assist the Government. Having a Chartered Accountants as a Technical Member would add value to the appellate process as they would facilitate in understanding the accounting and financial implications of the legal issues.

Accordingly, ICAI most humbly submits its case for consideration of an amendment to section 110 of CGST Act, 2017 to include Chartered Accountants as Technical Members in the GST Appellate Tribunal. Following is the suggested amendment:

"110. (1) A person shall not be qualified for appointment as –

.....

(c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A or he is a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949) as may be approved by the Commissioner;

(d) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an existing law or the State Goods and Services

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Tax Act or in the field of finance and taxation or he is a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949) as may be approved by the Commissioner;

....."

The Government has been a pioneer in bringing "lateral entry scheme" into public service. This is testimony of the Government's progressive thinking and welcoming approach to all who come forward with their support. ICAI is committed and takes its role as a 'Partner in Nation Building' with utmost seriousness and most humbly submits its request for considering an amendment in section 110 of CGST act, 2017 to include Chartered Accountants as Technical Member for the Centre and States subject to satisfaction of Commissioner for a duration that he is free to choose.

We hope that this representation will be considered favourably. We shall be glad to provide any further inputs as may be required. Your office may reach the undersigned or CA. Rajendra Kumar P, Central Council Member at rk@icai.in/9444017087 or Secretariat, GST & Indirect Taxes Committee at gst@icai.in.

With respectful regards,

Yours sincerely,

(CA. (Dr.) Debashis Mitra)

President, ICAI

Copy to:

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09 SEP 2022