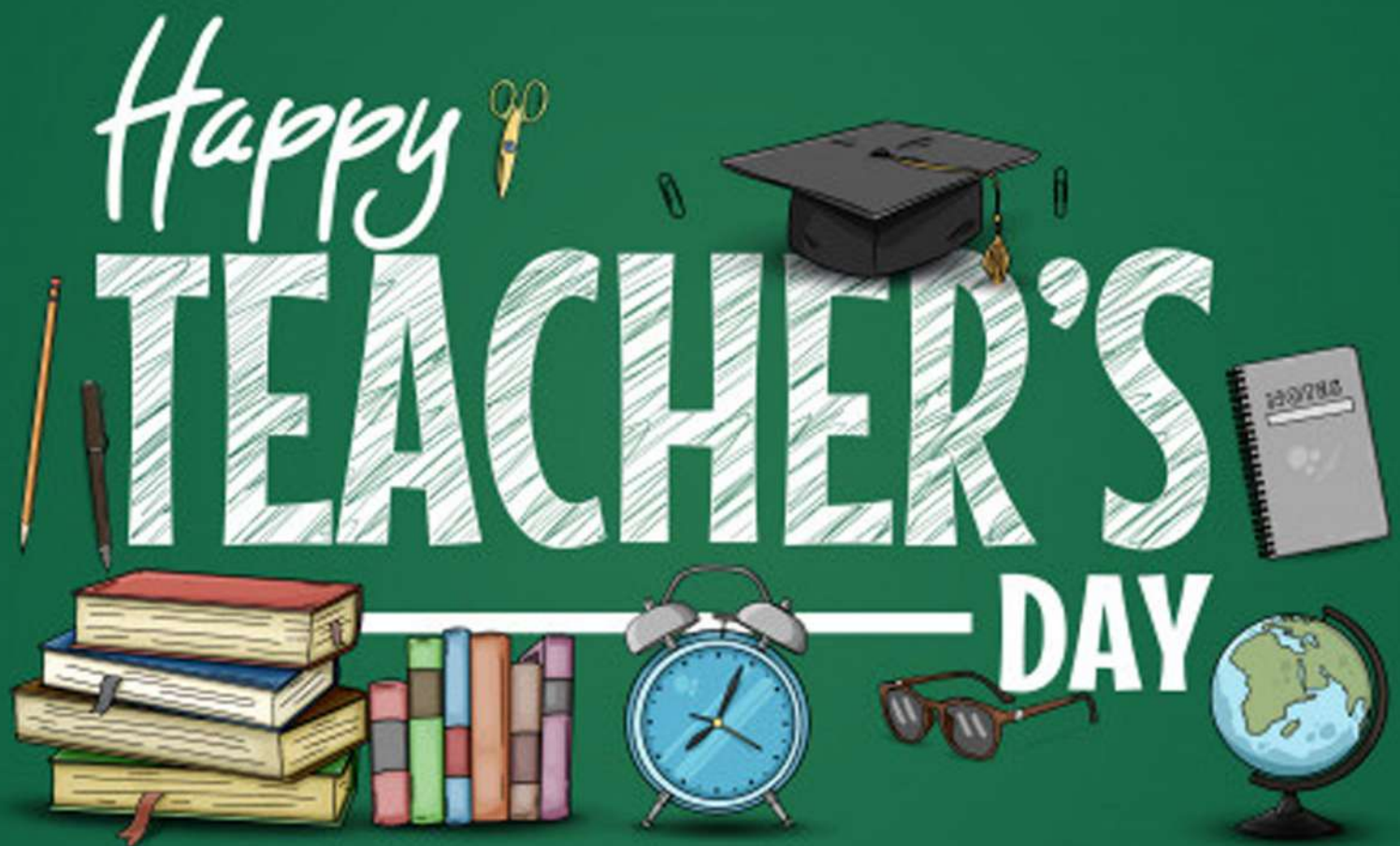




THE INSTITUTE OF CHARTERED  
ACCOUNTANTS OF INDIA  
(SETUP BY AN ACT OF PARLIAMENT)

## MEMBER'S E-NEWSLETTER SILIGURI BRANCH OF EIRC OF ICAI

# SEPTEMBER'2021



***"Extraordinary things are always hiding in  
places people never think to look"***

# COMMITTEE MEMBERS

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# CHAIRMAN'S MESSAGE



## Respected Seniors and Dear Friends,

The month of September is dedicated to the Teacher's and Gurus who bless and guide the students and hence we celebrate 5<sup>th</sup> September as Teacher's Day. Covid cases are on a steady decline and hopefully there will be no third wave hitting us.

Past Chairmen meet was organized in Hotel Cindrella on 05.09.2021. Many past chairman turned up. It was a special day as the managing Committee members listened to the views and suggestions of very experienced and learned members. The agenda for the meet was the land at Kawakhali which was discussed in length and it was decided that the new Branch Building be constructed there.

Now coming to the other programs organized during the month which were organized in Physical mode.

Seminar on Investor Awareness was organized in physical mode at the Branch premises on 11.09.21. The speaker was CA. Suraj Kar from Siliguri, a first timer but he was very natural and fluent. Members listened to the speaker and also asked many queries.

Seminar on Income Tax and GST provisions relating to Joint Development Agreement (JDA) was organized in physical mode at the Branch premises on 18.09.21. The speakers were CA. S. S. Gupta and CA. Arun Kumar Agarwal, both from Kolkata. Dr. Shankar Ghosh, the local MLA was the Chief Guest for the seminar. It was a very interactive seminar.

Vishwakarma Puja was celebrated in the Branch premises on 17.09.21. Because of the pandemic the program was organized on a small scale with the presence of only the Managing Committee Members.

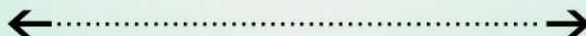
Members actively participated in all the programs.

My best wishes to all for the forthcoming Durga Puja and other festivals. Enjoy and have a great time to all.

Since the pandemic is not yet over, I request all of you to take appropriate care and wear masks.

With regards and best wishes to all,

**CA. Naresh Agarwal**  
**Chairman**  
**Siliguri Branch of EIRC of ICAI**



# FROM THE CO-EDITOR'S DESK

Dear Readers,

Trust this communication finds you in good health. Hope all of you are doing well and most of us might have taken both doses of covid vaccines by now.



September is the month of beginning of festive season starting with Ganesh Chaturthi, Vishwakarma Puja, etc. Our branch celebrated Teachers Day with Past Chairmen & few faculties of our branch & also organized Vishwakarma Puja at branch premises.

An Infrastructure Committee for construction of new branch building at Kawakhali was formed under the chairmanship of past branch chairman CA Shyam Kumar Agarwal for expediting the construction work.

Results of the Chartered Accountancy Examinations for Final, Intermediate & Foundation courses were declared during the month. Good number of students from our branch appeared & passed in these exams.

With an aim to align the time limit for generating UDIN with the Standards on Auditing and Standard on Quality Control, the Council at its 405<sup>th</sup> meeting held on 17<sup>th</sup> September 2021 has decided that the time limit of generating UDIN would be 60 days from the date of the signing of certificates/reports/document instead of 15 days henceforth.

The Council of ICAI has suo moto decided to extend the last date for payment of Membership/COP fee for the year 2021-22 from 30<sup>th</sup> September, 2021 to 31<sup>st</sup> December, 2021.

The edition of September 2021 newsletter will bring to you latest- circulars, orders, notifications issued by the Governments on various laws being Income Tax, Goods & Service Tax, etc. which will keep us updated on these areas and providing better service and advice to our clients.

I request our members to please come forward and contribute your valuable insight by way of articles on various topics and areas related to our profession. Any suggestions, queries or articles on any matter may be mailed to us at [siliguri@icai.org](mailto:siliguri@icai.org). We will be very glad to publish your thoughts and endeavour our best to ensure that all your suggestions are incorporated and queries are answered.

**The only impossible journey is the one you never begin!**

**Happy Durga Puja & Subho Bijoya!**

Take care. Be safe. Be at home!

**With Warm Regards**  
**CA. Manish Agarwal**  
**(Co-Editor)**  
**Siliguri Branch of EIRC, ICAI**  
**Edition: September'2021**

*Disclaimer: The Newsletter Committee along with the Editorial Team have used their best efforts in preparing this newsletter. The committee makes no representation or warranties with respect to the accuracy or completeness of the contents of this newsletter, and specifically disclaims any implied warranties of merchantability or fitness of any particular purpose. The accuracy and completeness of the information provided herein and the opinions stated herein are not guaranteed or warranted to produce any particular results and the advice and strategies contained herein may not be suitable for every individual. The authors shall not be liable/responsible for any loss of profit or damages caused.*

## DO'S & DON'TS



The maintenance of ethical Standards is necessary to keep on reinforcing the idea of keeping up and observing the highest ethical standards repeatedly. With this end in view and also keeping in mind the need to adhere to our creed “**Excellence, Independence and Integrity**”, as well as the changing dimensions and requirements of our members in their professional responsibilities we present herein below the “Know your Ethics” for code of conduct, **The Revised edition of code of Ethics has come into effect from 01.07.2020.**

**Q. Whether a member not in practice can use any other description?**

A member not in practice may use, as per the provisions of Section 7 of the Chartered Accountants Act, 1949, the designation of “chartered accountant”. However, if he chooses to use the designation of “chartered accountant”, he shall not use any other description, whether in addition, or in substitution thereof.

However, such a member is not prohibited from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess.

**Q. Whether a messaging application can be used by a member in practice to send messages to make people aware about their new practice and mention the services provided therein?**

No, it is not permissible to use a messaging application to send messages to make people aware about their new practice, and mention the services provided therein.

**Q. Whether a member in practice can advertise their services on social networking websites?**

Yes, a member in practice may advertise through a write up on social networking websites setting out his particulars or services, subject to the Council Guidelines for Advertisement, 2008. These Council Guidelines are appearing in Volume-II of Code of Ethics, 2020.

**Q. Whether a write-up in an Advertisement may contain any information about an achievement or award given to a member?**

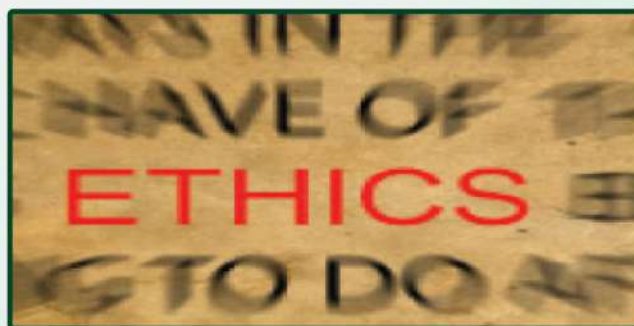
Yes, a write-up may contain information about an achievement or award given to a member, provided it has been awarded by the Central or State Governments or Regulatory bodies.

**Q. Whether a member in practice or a Firm may give link of its website on a social networking site?**

Yes, a member in practice or a Firm may provide link of its webpage on Social Networking site. However, the members should not solicit people to visit or request to like their respective page(s) on such social Networking site.

**Q. Whether members in practice can list themselves with online Application based service provider Aggregators?**

No, Council Guidelines for Advertisement, 2008 appearing in Volume-II of Code of



Ethics, 2020 prohibits members in practice to list themselves with online Application based service provider Aggregators, wherein other categories like businessmen, technicians, maintenance workers, event organizers etc. are also listed.

**Q. Can a Chartered Accountant in practice allow any person to practice in his name as a Chartered Accountant?**

No, Clause (1) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 prohibits a Chartered Accountant in practice to allow any person to practice in his name as a Chartered Accountant unless such person is also a Chartered Accountant in practice and is in partnership with or employed by him.

**Q. Can a Chartered Accountant in practice pay to any person any share, commission or brokerage in the fees or profits of his professional business?**

No, Clause (2) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 prohibits a Chartered Accountant in practice from paying or allowing any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of the deceased partner or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India.

**Q. Can a Chartered Accountant in practice share his fees with the Government in respect of Government Audit?**

The Institute came across certain Circulars/ Orders issued by the Registrar of various State Co-operative Societies wherein it has been mentioned that certain amount of audit fee is payable to the concerned State Govt. and the auditor has to deposit a percentage of his audit fee in the State Treasury by a prescribed

challan within a prescribed time of the receipt of Audit fee.

In view of the above, the Council considered the issue and while noting that the Government is asking auditors to deposit such percentage of their audit fee for recovering the administrative and other expenses incurred in the process, the Council decided that as such there is no bar in the Code of Ethics to accept such assignment wherein a percentage of professional fees is deducted by the Government to meet the administrative and other expenditure.

**Q. Can a Chartered Accountant in practice enter into partnership with a practicing Chartered Accountant of a recognized foreign professional body for sharing fee of their partnership within India?**

Yes, Clause (4) of Part-I of First Schedule to the Chartered Accountants Act, 1949 permits partnership between members of the Institute and the members of the recognized foreign professional bodies either by the Central Government or the Council of the Institute by virtue of either under Section 29(2) of the Chartered Accountants Act, 1949 or under Regulation 53B(2) of the Chartered Accountants Regulations, 1988 provided they share fees of the partnership business both within India and outside India.

**Q. Whether a practicing Chartered Accountant can be a partner or designated partner in a Limited Liability Partnership, which is not doing professional work, but is in the commercial activities?**

No, as per paragraph 2.14.1.4(ii) under Clause (4) of Part-I of First Schedule to the Chartered Accountants Act, 1949, appearing in Volume-II of Code of Ethics, 2020, a practicing Chartered Accountant cannot be a partner or designated partner in a Limited Liability Partnership, which is not doing professional work, but is in the commercial activities.

# GST

## Latest Notification, Circulars, Orders

(Source: [www.cbic.gov.in](http://www.cbic.gov.in))

Sl. No	Notification No., Circular No., Order No. With date	Content	Impact
1	Notification No. 35/2021–Central Tax   Dated: 24th September, 2021	Rule 10B Aadhaar authentication for registered person & Other changes	<p>Aadhaar authentication made mandatory for filing refund claims and applications for revocation of cancellation of registration.</p> <p>Rule 10A has been amended whereby after obtaining registration, a registered person is required to upload his bank details, which are in his name and his PAN number is also updated with the bank. The details have to be furnished within 45 days of obtaining registration or else the registration might be canceled.</p> <p>Rule 45(3) has been amended whereby Taxpayers whose Aggregate Turnover in preceding Financial Year is greater than 5 Crores shall furnish ITC-04 once in six months i.e for April to September &amp; for October to March. Taxpayers whose Aggregate Turnover in preceding Financial Year is less than 5 Crores shall furnish ITC-04 annually for a financial year.</p> <p>In Rule 59(6), the words “for preceding two months”, have been substituted with the words “for the preceding month”. After the amendment, a Registered Person shall not be allowed to furnish FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for the preceding month.</p> <p>Rule 96C has been inserted newly which states that the “bank account” for claiming refund shall be the bank account which is in the name of the applicant and obtained on his Permanent Account Number.</p> <p>Government has vide Notification No. 36/2021 dated 24th September 2021 clarified that specified persons such as Government Departments, PSUs, the person who is not a citizen of India, etc. who are already registered under the GST law, are excluded from the requirement of getting Aadhaar Authentication vide Notification No. 35/2021 – Central Tax, Dated 24th September 2021.</p>

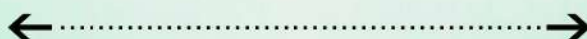




## Latest Notification, Circulars

(Source: [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in))

Sl. No	Notification or Circular No. With date	Content	Impact
1	Circular No. 17/2021 dated 09th September 2021	<b>CBDT extends due dates of ITR &amp; various Audit reports for AY 2021-22</b>	<p>1. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 31st July, 2021 under sub-section (1) of section 139 of the Act, as extended to 30th September, 2021 vide Circular No. 9/2021 dated 20.05.2021, is hereby further extended to 31st December, 2021;</p> <p>2. The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which is 30th September, 2021, as extended to 31st October, 2021 vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 15th January, 2022;</p> <p>3. The due date of furnishing Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, which is 31st October, 2021, as extended to 30th November, 2021 vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 31st January, 2022;</p> <p>4. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 31st October, 2021 under sub-section (1) of section 139 of the Act, as extended to 30th November, 2021 vide Circular No. 9/2021 dated 20.05.2021, is hereby further extended to 15th February, 2022;</p> <p>5. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 30th November, 2021 under sub-section (1) of section 139 of the Act, as extended to 31st December, 2021 vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 28th February, 2022;</p> <p>6. The due date of furnishing of belated/revised Return of Income for the Assessment Year 2021-22, which is 31st December, 2021 under sub-section (4)/sub-section (5) of section 139 of the Act, as extended to 31st January, 2022, vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 31st March, 2022.</p>
2	Notification No. 113/2021- Income Tax   Dated: 17th September, 2021	<b>Aadhaar Linking, penalty proceedings completion due date extended</b>	<p>Time limit for intimation of Aadhaar number to the Income tax Department for linking of PAN with Aadhaar has been extended from 30th September, 2021 to 31st March, 2022.</p> <p>The due date for completion of penalty proceedings under the Act has also been extended from 30th September, 2021 to 31st March, 2022.</p> <p>Further, the time limit for issuance of notice and passing of order by the Adjudicating Authority under the Prohibition of Benami Property Transactions Act, 1988 has also been extended to 31st March, 2022.</p>
3	F.No. 225/98/2020 – ITA-II dated 30.09.2021	<b>ITRs up to AY 2017-18 with refund claim to be processed by 30.11.2021</b>	All validly filed Income Tax Returns (ITRs) up to Assessment Year 2017-18 with refund claim, which could not be processed u/s 143(1) and which had become time barred, should be processed by 30/11/2021 subject to the conditions/exceptions specified therein.



## Insight into Latest Case Laws



### GOODS & SERVICE TAX.....Advance Rulings/Case Laws

Sl.No	Citation	Subject Matter & Brief Insight
1	Sunny Motors Vs CBIC (Orissa High Court)	<p><b>Reopen GST Portal to Enable Form TRAN-1 Filing or Accept Manually</b></p> <p>Legitimate carry forward of ITC cannot be denied for non-filing of TRAN-1 – directed Department to permit filing of TRAN-1 till November 01, 2021.</p> <p>The Hon'ble Orissa High Court relied on the judgment of Aagman Services Private Limited v. Union of India [W.P. (C) No.1329 of 2019 dated November 21, 2019] which permitted the Petitioner in that case to submit his TRAN-1 Form either electronically or manually. Also relied on Adfert Technologies Pvt. Ltd. v. Union of India and others, [(2020) 73 GSTR 267] wherein it was observed that extension of date for submitting the declaration electronically on account of technical difficulties on the common portal is permissible under Rule 117(1A) of CGST Rules. The Adfert Technologies Judgment (supra) further provided "no body shall be denied to carry forward legitimate claim of ITC on the ground of non-filing of TRAN-1 by 27th December, 2017."</p> <p>Taking note and placing reliance on the above mentioned judgments, the court directed the Department to either open the portal to allow the Petitioner to file TRAN-1 Form electronically on or before November 1, 2021 or to accept the form from the Petitioner manually before that date</p>
2	Advance ruling obtained by suppression of facts is void ab-initio	<p><b>In re J K Food Industries (GST AAAR Gujarat)</b></p> <p>The appellant has submitted before us that the legality and propriety of the advance ruling issued by the GAAR is required to be examined in terms of section 98(2) of the CGST Act, 2017 and decision to be taken whether the said order is correct in law or void ab initio and hence deserved to be set aside.</p> <p>It is observed that appellant has obtained the Advance Ruling by submitting application of advance ruling with suppression of material facts or misrepresentation of facts, and the application was not eligible to be admitted in view of proviso to sub-section (2) of section 98 of the CGST Act, 2017. Therefore, in terms of Section 104 of CGST Act, 2017, and the GGST Act, 2017, the advance ruling pronounced by the Gujarat Authority of Advance Ruling is liable to be declared as void ab-initio.</p>

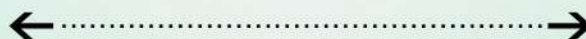


## Insight into Latest Case Laws



### INCOME TAX ACT.....Advance Rulings/Case Laws

Sl No	Citation	Brief Insight to the case law
1	ACIT Vs Prakash Industries Ltd. (ITAT Delhi)	<p><b>Documents found during the course of first search cannot be utilized for Assessment consequent to 2nd Search</b></p> <p>Any incriminating material or documents found during the course of first search cannot be utilized while framing the assessments in pursuance of the second search in case of no assessment order passed consequence of first search.</p>
2	FMI Automotive Components Pvt. Ltd. Vs DCIT (ITAT Delhi)	<p><b>Depreciation is Operating &amp; revenue from Sale of Asset is non-operating in nature</b></p> <p>Sale of asset is not part of regular revenue operation in the case of the assessee and, therefore, profit generated on same cannot be part of revenue operation of the assessee. In our opinion, the Learned DRP has correctly held the profit on sale of a set as non-operative item. As far as the depreciation on operative expense is concerned, the learned DRP has held to be operative in view of assets used for the purpose of the business, and thus depreciation is part of expenditure connected with business operation of the assessee. The depreciation is also justified as operating expense, because profit earned on employing the tools in the business is part of profit earned on manufacturing process which is part of operating revenue. We do not find any error in the order of the Learned DRP on the issue and accordingly, we reject this contention of the assessee to refer this matter back to the learned TPO.</p> <p>Depreciation expense to be considered as operating &amp; revenue generated from non-routine business operations to be considered as non-operating in nature in transfer pricing calculations for taxpayers as well as comparable companies.</p>
3	CIT Vs Exim Rajathi India Pvt. Ltd. (Madras High Court)	<p><b>All Shares enjoy long term capital gain benefit on transfer after 12 months</b></p> <p>We take note of the Explanatory Notes to the Provisions of the Finance (No.2) Act, 2014 vide Circular No. 01/2015, dated 21.01.2015. In paragraph 5.2 of the Circular, it has been stated as follows:-</p> <p>5.2. The shorter period of holding of not more than twelve months for consideration as short-term capital asset was introduced for encouraging investment on stock market where prices of the securities are market determined. However, all shares whether listed or unlisted have enjoyed the benefit of short period of holding and even any investment in shares of private limited companies enjoyed long-term capital gains on its transfer after twelve months.</p> <p>The above Circular issued by the CBDT will clearly indicate that all shares whether listed or unlisted have enjoyed the benefit of shorter period of holding and even any investment in shares of private limited companies enjoyed long-term capital gains on its transfer after twelve months.</p>



# COMPLIANCE CALENDAR

## FOR INFORMATION OF MEMBERS

### Compliance Calendar for the Month of October 2021

Due date (October 2021)	Form to be filed	Period	Details
7	Challan No.281	Sep-21	Payment of TCS collected in September 2021
7	Challan No.281	Sep-21	Payment of TDS deducted in September 2021
10	GSTR 7	Sep-21	GSTR-7-Monthly Return by Tax Deductors for September 2021
10	GSTR 8	Sep-21	GSTR-8-Monthly Return by E-Commerce operators for September 2021
11	GSTR 1	Sep-21	Taxpayers having an aggregate turnover of more than Rs. 5 Crores or opted to file Monthly Return
13	GSTR IFF	Sep-21	GSTR-IFF-Monthly return of Outward Supplies for September 21 for person who opted for QRMP Scheme
13	GSTR 6	Sep-21	GSTR-6-Monthly Return of Input Service Distributor for September 2021
15	ESI Challan	Sep-21	ESI payment
15	ECR	Sep-21	E-payment of Provident Fund
15	TCS Return	Jul-Sep 2021	TCS return for July-Sept 2021 quarter
18	CMP-08	Jul-Sep 2021	GST payment/Return for Composition dealers
20	GSTR 3B	Sep-21	GSTR 3B Summary of Outward and Inward Supplies for the payment of Tax
20	GSTR 5 & 5A	Sep-21	GSTR 5 & 5A Return for Non-Resident Taxable Person for the month of September 2021
25	PMT-06	Sep-21	Taxpayer who is opting for QRMP Scheme has to deposit tax using form GST PMT-06 for September 2021
30	TDS challan	Sep-21	Last date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M in the month of September 2021
30	Form 8	NA	Financial Reports of an LLP in Form 8 for FY 2020-2021
31	TDS Return	Jul-Sep 2021	TDS return for July-Sept 2021 quarter
31	NA	NA	Payment of tax under the Direct Tax Vivad se Vishwas Act, 2020 with additional charges
31	MSME-1	Apr-Sep 21	Form MSME (outstanding payments to MSME's) for Apr-Sep 2021



## PROGRAMS FOR OCTOBER 2021

Program*	Date & other details
Blood Donation Camp	03.10.2021
Seminar/VCM on various topics of professional interest	To be intimated

\* Seminar/Webinar are subject to confirmation from CPE Directorate.

## SEMINARS/WEBINARS HELD IN THE MONTH OF SEPTEMBER 2021



**PAST CHAIRMEN MEET HELD AT HOTEL CINDRELLA  
ON 05.09.2021**



**TEACHER'S DAY CELEBRATED AT HOTEL CINDRELLA  
ON 05.09.2021**



**SEMINAR ON INVESTOR AWARENESS ON 11.09.2021  
AT BRANCH PREMISES**



**SEMINAR ON INCOME TAX & GST PROVISIONS  
RELATING TO JOINT DEVELOPMENT AGREEMENTS  
ON 18.09.2021 AT BRANCH PREMISES**



**INTERACTIVE MEETING OF FEMALE MEMBERS OF  
OUR BRANCH WITH CA GAURAV SHARMA, IPS,  
COMMISSIONER OF POLICE, SILIGURI ON 25.09.2021**



**INTERACTIVE MEETING OF OUR MEMBERS WITH  
OFFICIALS OF PUNJAB NATIONAL BANK CIRCLE  
OFFICE ON 25.09.2021**